

FILED  
4:39 O'Clock M

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA ✓

DEC 10 2010

IN AND FOR THE COUNTY OF YAVAPAI

JEANNE HICKS, Clerk  
B. Chamberlain  
Deputy

STATE OF ARIZONA, )  
 ) Yavapai Superior  
 ) Court No.  
 ) P1300CR20081339  
 )  
Plaintiff, )  
 ) JURY TRIAL  
 )  
vs. )  
 )  
STEVEN CARROLL DEMOCKER, )  
 )  
 )  
Defendant. )  
 )

---o0o---

Proceedings held before the Honorable Thomas B. Lindberg

---o0o---

Prescott, Arizona June 9, 2010  
1:22 to 4:58 p.m.

Sandra K Markham, CR, RPR, CSR  
Certified Reporter  
Arizona License No. 50001

ORIGINAL

1     **APPEARANCE OF COUNSEL:**

2             For Plaintiff:  
3             JOSEPH BUTNER  
4             JEFFREY PAPORE,  
              Deputy County Attorneys,  
              Yavapai County Attorney's Office.

5             For Defendant:  
6             JOHN M. SEARS,  
              Attorney at Law.

7             LARRY HAMMOND,  
              Attorney at Law.

8             ANNE CHAPMAN,  
9             Attorney at Law.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

## I N D E X

## WITNESSES:

## PAGE

## MATTHEW TRAIKTOR

Direct Examination (Resumed) by Mr. Butner	4
Cross-Examination by Mr. Sears	24
Redirect Examination by Mr. Butner	89
Recross-Examination by Mr. Sears	95
Questions By Jury	96
Redirect Examination by Mr. Butner	100
Recross-Examination by Mr. Sears	105
Redirect Examination by Mr. Butner	110
Questions By Jury	111

## CANDICE ACTON

Direct Examination by Mr. Sears	113
---------------------------------	-----

13:22:21 1 THE COURT: Record reflects the presence of the  
13:22:24 2 jury, the defendant and his counsel, the prosecution team  
13:22:27 3 as well.

13:22:28 4 Since we had the break, don't forget to turn  
13:22:32 5 your cell phones off and such.

13:22:34 6 We're are continuing with the examination of  
13:22:39 7 Deputy Taintor. If you could take the stand again, you  
13:22:42 8 are still under oath.

13:22:43 9 MATTHEW TRANTOR

13:22:53 10 previously sworn in, resumed the stand:

13:22:53 11 THE COURT: You may proceed.

13:22:54 12 DIRECT EXAMINATION (Resumed)

13:22:54 13 MR. BUTNER: Thank you, Judge.

13:22:55 14 Q Okay. Deputy Taintor, you had been going around  
13:22:59 15 checking the various doors to see their status in terms of  
13:23:02 16 being locked and unlocked, right?

13:23:04 17 A Correct.

13:23:05 18 Q And you did that and then you went next door and  
13:23:10 19 contacted the neighbors, the Drakeeses on the south side,  
13:23:13 20 right?

13:23:13 21 A Correct.

13:23:14 22 Q Okay. And after that, what were the next duties  
13:23:22 23 that you undertook as part of this investigation?

13:23:26 24 A We believe that possibly the investigation would  
13:23:30 25 lead us to being involved with that trail somehow that ran

13:23:34 1 along back parts of the house, so we went and we checked  
13:23:39 2 on our map and noticed that Glenshandra was the closest  
13:23:41 3 road to the north.

13:23:43 4 Q When you say we -- excuse me for interrupting --  
13:23:45 5 but you say we checked on a map. Who is we?

13:23:48 6 A I'm sorry. Sergeant Acton and I.

13:23:50 7 Q Okay. And you looked at this map to determine  
13:23:54 8 what?

13:23:54 9 A To determine what was the closest road to the  
13:23:57 10 north and when I looked at the map, I noted that  
13:24:00 11 Glenshandra was the closest road to the north, and having  
13:24:03 12 been familiar with that area, being patrolled in that  
13:24:05 13 area, you know, numerous times, I remembered that there  
13:24:08 14 was a gate that led to a trailhead in that location at the  
13:24:13 15 end of Glenshandra.

13:24:26 16 Q Okay. Deputy Taintor, before -- I am going to  
13:24:30 17 show this to you so as not to show it to the jury yet.

13:24:33 18 Okay. If you would take a look at what has  
13:24:37 19 been marked as Exhibit Number -- I said 2312 a minute ago.  
13:24:41 20 I hope that's right. 2312. Do you recognize what's  
13:24:45 21 depicted in this particular exhibit?

13:24:47 22 A Yes, I do.

13:24:48 23 Q What is it?

13:24:49 24 A It's an aerial photo of the area including Bridle  
13:24:53 25 Path and Glenshandra and Williamson Valley and the other

13:24:55 1 roads in that vicinity.

13:24:57 2 Q Okay. Basically the area of where the  
13:25:01 3 investigation took place?

13:25:02 4 A That is correct. Yes, sir.

13:25:03 5 MR. BUTNER: I would move for the admission of  
13:25:07 6 2312 at this time.

13:25:08 7 MR. SEARS: No objection, your Honor.

13:25:09 8 THE COURT: 2312 is admitted.

13:25:11 9 MR. BUTNER: Thank you.

13:25:13 10 Q Let's put it right up here so that we can refer  
13:25:17 11 to it. Okay. And you have got your laser pointer handy  
13:25:25 12 just in case.

13:25:26 13 A No, sir.

13:25:28 14 THE COURT: Okay. Who stole the laser pointer.  
13:25:31 15 I see.

13:25:31 16 MR. BUTNER: But it wasn't me.

13:25:33 17 THE COURT: I believe you.

13:25:35 18 MR. BUTNER: Just happened to notice that.

13:25:37 19 Q Okay. So would you point to the Bridle Path  
13:25:43 20 residence for us, please, on the map.

13:25:47 21 A It's difficult to see from -- but I believe it's  
13:25:50 22 probably right in this area right in here.

13:25:52 23 THE COURT: By the way, if you need to step up to  
13:25:54 24 make sure of locations, feel free.

13:25:56 25 THE WITNESS: Okay. Thank you.

1 MR. BUTNER:

13:25:57 2 Q You can't see it actually depicted on the  
13:26:00 3 photograph because it's so small, right?

13:26:02 4 A Correct.

13:26:02 5 Q But you see the address there at 7485 North  
13:26:07 6 Bridle Path?

13:26:07 7 A Yes, sir.

13:26:07 8 Q That's where you were located?

13:26:08 9 A Yes, sir.

13:26:09 10 Q Okay. And then would you point -- first of all,  
13:26:14 11 Glenshandra?

13:26:15 12 A Glenshandra is right here and access is off  
13:26:19 13 Williamson Valley Road.

13:26:20 14 Q Okay. And so it runs basically in an easterly  
13:26:25 15 direction from Williamson Valley Road?

13:26:29 16 A Yes, sir.

13:26:29 17 Q Does it dead end?

13:26:30 18 A Yes, sir. It dead ends right here at the end of  
13:26:33 19 the blue -- blue little mark right there.

13:26:35 20 Q And that's just to the north of the Bridle Path  
13:26:41 21 residence?

13:26:41 22 A Yes, sir.

13:26:42 23 Q And what is at the end of Glenshandra Drive?

13:26:45 24 A At the end of Glenshandra, there's -- again  
13:26:48 25 there's a fence that runs north and south from there and

13:26:52 1 right -- right there off the end of that road, it turns to  
13:26:57 2 gravel and then there's a gate probably about three, four  
13:27:00 3 feet wide, what have you, that is locked.

13:27:02 4 Q Okay. And is that the trailhead?

13:27:04 5 A Yes, sir.

13:27:05 6 Q Okay. And this area to the east side of the map  
13:27:10 7 behind Glenshandra, behind the dead end at Glenshandra and  
13:27:14 8 behind the fence that goes behind Bridle Path, is that the  
13:27:17 9 open range area that you were talking about?

13:27:19 10 A Yes, sir. You can see it runs all through here.  
13:27:21 11 I have not been out this far, but I have been in this area  
13:27:23 12 right here.

13:27:24 13 Q Okay. And is it easy to drive from Bridle Path  
13:27:30 14 to Glenshandra? Is it basically a straight little drive?

13:27:33 15 A No, sir. If you take the road by car?

13:27:37 16 Q Right.

13:27:37 17 A If you take the road by car, you actually have to  
13:27:40 18 come back out and access Williamson Valley before you go  
13:27:43 19 back up to Glenshandra.

13:27:44 20 Q So you have to make a big loop and go back and  
13:27:47 21 come back in on Glenshandra?

13:27:48 22 A Yes, sir.

13:27:49 23 Q But in terms of distance from the Bridle Path  
13:27:55 24 residence in a straight line to the north, to the  
13:27:58 25 Glenshandra trailhead, approximately how far is that if



13:28:03 1 you know?

13:28:03 2 A I don't really know.

13:28:05 3 Q Okay.

13:28:07 4 A I would say -- I would say it's probably three,  
13:28:11 5 four hundred yards maybe at the most.

13:28:13 6 Q Just a few hundred yards?

13:28:15 7 A Yes.

13:28:15 8 Q Rather than a couple of miles or so out to  
13:28:19 9 Williamson Valley Road and back in?

13:28:20 10 A Yes, sir.

13:28:21 11 Q Okay. Let me show you what has been marked as  
13:28:43 12 Exhibit Number 2299 and 2311.

13:29:29 13 May I approach, Judge?

13:29:30 14 Better go this way I think.

13:29:33 15 Would you take a look at those two  
13:29:37 16 photographs. Do you recognize what's depicted in those  
13:29:40 17 photographs?

13:29:41 18 A Yes, sir. That's the area that we're referring  
13:29:43 19 to as the trailhead at the end of Glenshandra.

13:29:45 20 Q Is that how it appeared when you went out there  
13:29:50 21 on the evening of -- evening and early morning hours of  
13:29:55 22 July the 2nd of the year 2008?

13:29:57 23 A Yes, sir.

13:29:58 24 Q In fact, is there even crime screen tape still in  
13:30:01 25 those photos?

13:30:02 1           **A**     Yes, sir, there is.

13:30:03 2           MR. BUTNER: I would move for the admission of  
13:30:08 3 Exhibits 2299 and 2311.

13:30:13 4           MR. SEARS: No objection.

13:30:14 5           THE COURT: 2299 and 2311 are admitted.

13:30:20 6           MR. BUTNER: I have to make a choice, don't I.  
13:30:28 7 Let's move this over.

13:30:42 8                     All right. While we're waiting, I guess,  
13:31:10 9 for that to warm up, let me show you a bunch of  
13:31:14 10 photographs here of --

13:32:09 11                     (Discussion held off the record.)

13:32:09 12           MR. BUTNER: Let me show you what's been marked  
13:32:13 13 as Exhibits 2300 through 2310.

13:32:20 14                     May I, your Honor?

13:32:21 15           THE COURT: You may.

13:32:21 16           MR. BUTNER: Thank you.

13:32:22 17           **Q**     Would you take a look at those photographs. Do  
13:32:50 18 you recognize them?

13:32:51 19           **A**     Yes, sir, I do.

13:32:52 20           **Q**     What are they?

13:32:54 21           **A**     These are pictures that I took at the trailhead.

13:32:57 22           **Q**     Okay. And when did you take these pictures?

13:32:59 23           **A**     Those were during the dark hours between July 2nd  
13:33:03 24 and July 3rd, 2008.

13:33:06 25           **Q**     They aren't of the best quality, are they?

13:33:08 1 A No, sir, they're not.

13:33:09 2 Q But it was dark out there, right?

13:33:11 3 A Yes, sir.

13:33:13 4 MR. BUTNER: Okay. And I would move for the  
13:33:16 5 admission of 2300 through 2310 at this time.

13:33:29 6 MR. SEARS: I don't know which numbers.

13:33:39 7 (Discussion held off the record.)

13:35:25 8 THE COURT: Any objections to 2300 through 2310?

13:35:30 9 MR. SEARS: No objection, your Honor.

13:35:34 10 THE COURT: 2300 through 2310 are admitted.

13:35:37 11 MR. BUTNER: Okay. Let's take a look at, first  
13:35:40 12 of all, once --

13:35:41 13 May I publish, your Honor?

13:35:43 14 THE COURT: You may.

13:35:44 15 MR. BUTNER: Thank you.

13:35:54 16 Q Okay. I am showing you what's admitted into  
13:36:07 17 evidence as Exhibit 2299 at this point in time. Tell us  
13:36:12 18 what's depicted in this particular photograph, please.

13:36:15 19 A Again this is a photo of the Glenshandra  
13:36:19 20 trailhead at the very end of Glenshandra.

13:36:22 21 Q Okay. About what time did you go to that  
13:36:28 22 particular site?

13:36:30 23 A I don't recall.

13:36:32 24 Q Was it on July the 2nd or July the 3rd?

13:36:35 25 A It was on July 2nd.

13:36:37 1 Q Okay.

13:36:38 2 A It was in the -- it was getting late at that  
13:36:41 3 time, so it was very dark when we were there.

13:36:44 4 Q And who went with you to that scene?

13:36:47 5 A Sergeant Acton went with me to the scene.

13:36:50 6 Q And what did you go there for?

13:36:52 7 A We went there to just investigate and to see if  
13:36:57 8 there was a possibility that this may be somehow involved  
13:37:00 9 with -- if it was a good access point, if somebody heard  
13:37:03 10 somebody talking back there, was in an area, what have  
13:37:06 11 you. We just wanted to find out, you know, how close it  
13:37:09 12 was to the area and what the situation was there.

13:37:13 13 Q Was your going to this particular area  
13:37:16 14 precipitated by your conversation with the neighbors next  
13:37:20 15 door, the Drakes?

13:37:21 16 A Yes. That had quite a bit to do with it, yes.

13:37:24 17 Q Okay. And let me show you what is admitted into  
13:37:28 18 evidence as Exhibit Number 2311. It's a little bit closer  
13:37:35 19 view of that particular area, correct?

13:37:37 20 A Yes.

13:37:38 21 Q Okay. Approximately -- we don't have much in the  
13:37:41 22 way of a frame of reference here. Approximately how wide  
13:37:44 23 is that particular gate?

13:37:45 24 A I would say it's probably about three, four feet  
13:37:48 25 wide.

13:37:48 1 Q Okay. And how high is the fence that goes along  
13:37:51 2 there?

13:37:52 3 A It's standard fencing, I would say, at about  
13:37:56 4 four-and-a-half feet high.

13:37:58 5 Q Okay. When you went out to this area at the  
13:38:05 6 Glenshandra trailhead, did you find anything of  
13:38:07 7 significance?

13:38:08 8 A When we got there -- when I say we, Sergeant  
13:38:13 9 Acton and I -- when we arrived there, I went across the  
13:38:17 10 gate there and just started looking around and I observed  
13:38:21 11 things that you would see at the trailhead. I observed  
13:38:23 12 there was tire tracks. There was some footprints and some  
13:38:25 13 things like that there.

13:38:26 14 Q What kind of tire tracks?

13:38:28 15 A It appeared to be like bicycle -- bicycle tracks.

13:38:32 16 Q Okay. And what kind of footprints did you find?

13:38:35 17 A Shoe prints that would indicate that maybe it was  
13:38:38 18 a running shoe, you know, hiking type shoe, that sort of  
13:38:42 19 thing.

13:38:42 20 Q Did you take measures to avoid messing up those  
13:38:47 21 prints so to speak?

13:38:48 22 A Yes.

13:38:48 23 Q What did you do?

13:38:49 24 A We -- I was using my flashlight and as I walked  
13:38:52 25 through the area, I was just very careful on where I

13:38:55 1 stepped so as not -- I didn't know what was over here. If  
13:38:58 2 it was of any significance at all. But I didn't want to  
13:39:02 3 destroy any evidence, you know, in the process of me being  
13:39:05 4 in the area.

13:39:05 5 Q How did you get -- did you go from the outside so  
13:39:10 6 to speak out here where the parking area is to the inside?  
13:39:14 7 Did you crawl over the fence?

13:39:15 8 A Yes, sir. I climbed over that pipe -- that pipe  
13:39:18 9 fence, gate there.

13:39:20 10 Q Okay. And what type of tire tracks did you see  
13:39:24 11 there?

13:39:25 12 A Ah, on this side of the gate or the other side?

13:39:29 13 Q Let's talk about the near side of the fence,  
13:39:31 14 first of all.

13:39:32 15 A Sergeant Acton was -- was looking in this area.  
13:39:36 16 I saw some tire tracks off to this -- over here. It's --  
13:39:41 17 this area is kind of gravelly.

13:39:44 18 Q So were you able to see tire tracks on this  
13:39:46 19 gravelly area?

13:39:47 20 A I did not, no.

13:39:48 21 Q Okay.

13:39:49 22 A I did not see any, but there some other tire  
13:39:51 23 tracks where people had pulled over off on the side here,  
13:39:54 24 but I didn't -- couldn't really make anything out.

25 Q Okay.

13:39:56 1           **A**     Like I said, Sergeant Acton was over on this  
13:39:58 2 side.

13:39:59 3           **Q**     So were you able to find any tire tracks that  
13:40:02 4 seemed to be of significance on the near side of the gate  
13:40:05 5 here?

13:40:06 6           **A**     On this side?

13:40:07 7           **Q**     Yes. That's the near side.

13:40:08 8           **A**     Near side. No, sir. I did not.

13:40:10 9           **Q**     Okay. But you went over the gate and looked on  
13:40:14 10 the far side, also?

13:40:15 11          **A**     Yes, sir. Over on this side of the gate, yes.

13:40:17 12          **Q**     Right. And when you got over on the far side of  
13:40:20 13 the gate, what did you find that you thought was of  
13:40:23 14 significance?

13:40:24 15          **A**     Again I saw footprints, you know, bicycle tracks,  
13:40:30 16 you know from some -- from tires. I saw -- I want to say  
13:40:36 17 hoof prints and things like that, because I think this is  
13:40:38 18 accessed by people on horseback and things like that.

13:40:40 19          **Q**     I understand. We don't want you to be guessing  
13:40:42 20 at things though, Deputy Taintor.

13:40:44 21                   Thinking back when you went over on the  
13:40:47 22 other side, what kind of tracks or prints did you see that  
13:40:52 23 you can recall?

13:40:53 24          **A**     The ones that I was taking pictures of, the  
13:40:56 25 reason I thought they were of significance were tire

13:40:58 1 tracks and footprints.

13:40:59 2 Q And you're pointing --

13:41:01 3 A I was pointing in this area right here just to  
13:41:03 4 indicate it was on that side of the fence.

13:41:05 5 Q Just on the inside of the gate?

13:41:07 6 A On the opposite side of the gate that we are  
13:41:09 7 looking at, yes.

13:41:10 8 Q Okay. And let me show you then what -- a bunch  
13:41:15 9 of photographs that have been already admitted into  
13:41:17 10 evidence and I am going to put them up on the Elmo and you  
13:41:21 11 tell us what you think you took a photograph of in these  
13:41:26 12 photos.

13:41:27 13 Okay. Let me show you Exhibit Number 2300.  
13:41:31 14 First of all, can you tell what's depicted in that  
13:41:39 15 particular photograph?

13:41:39 16 A I can't at this point. I believe if you look  
13:41:44 17 very very closely at the originals, you would see some  
13:41:48 18 footprints --

13:41:50 19 Q Okay.

13:41:51 20 A -- in this.

13:41:51 21 Q And these were taken in the dark, right?

13:41:53 22 A These were taken in the dark with my flashlight  
13:41:55 23 and just a simple little digital camera.

13:41:59 24 Q So the illumination was from your flashlight?

13:42:01 25 A The illumination from this photo I believe was



13:42:04 1 from a flash on the camera.

13:42:05 2 Q Okay. Let me show you what has been marked as  
13:42:09 3 Exhibit 2301. Can you tell us what's depicted in that  
13:42:23 4 photograph that you think is of significance?

13:42:26 5 A It's the same general area and I like I said, I  
13:42:33 6 was taking pictures again of footprints and tire tracks  
13:42:36 7 and they are indiscernible on this photo.

13:42:39 8 Q All right. You took about ten photographs,  
13:42:44 9 right?

13:42:44 10 A Yes, sir.

13:42:44 11 Q Did you report what you had discovered? Here's  
13:42:51 12 Exhibit 2302. Did you report what you had discovered to  
13:42:53 13 anybody?

13:42:54 14 A Yes.

13:42:55 15 Q Who did you report it to?

13:42:56 16 A Went back and we advised Lieutenant -- Lieutenant  
13:43:02 17 Rhodes and Sergeant Huante what we found over here.

13:43:04 18 Q Those are the detectives that had arrived at the  
13:43:07 19 scene?

13:43:07 20 A Yes, sir.

13:43:08 21 Q Okay. And can you tell -- first of all, what is  
13:43:12 22 this dark thing in the front at the bottom of the  
13:43:15 23 photograph?

13:43:15 24 A That would be the bar from the gate.

13:43:18 25 Q So you were looking right over the gate when you

13:43:21 1 took this photograph?

13:43:21 2 A I was looking over the gate or through the gate,  
13:43:24 3 yes.

13:43:24 4 Q Do you remember what's of significance in this  
13:43:29 5 particular photograph?

13:43:29 6 A Again, there was either footprints or tire tracks  
13:43:34 7 of something that I saw while we were there.

13:43:36 8 Q Let me show you Exhibit Number 2303. Can you see  
13:43:41 9 anything in that particular photograph?

13:43:42 10 A No, sir, I don't.

13:43:46 11 Q Here's 2304. Anything of significance in that  
13:43:53 12 photograph that you can note?

13:43:55 13 A Not that I can see here.

13:43:58 14 Q Okay. 2305. Notice anything in that photograph?

13:44:08 15 A No, sir.

13:44:09 16 Q 2306?

13:44:21 17 A Yes, sir. I got a different angle from it and  
13:44:25 18 you can see -- you can see the tracks are somewhat legible  
13:44:30 19 right here.

13:44:30 20 Q Okay. Those are the tire tracks that you were  
13:44:33 21 talking about?

13:44:33 22 A Yes, sir.

13:44:34 23 Q And then here's some of your best work, I'm  
13:44:44 24 afraid. I'm kidding. 2307, can you tell what that is?

13:44:51 25 A That's dirt.

13:44:55 1 Q Okay. Is there anything --

13:44:57 2 A This -- I was using my flashlight to illuminate.  
13:45:00 3 I turned off the flash, because I was trying several  
13:45:02 4 different things to try to actually depict what I was  
13:45:04 5 seeing.

13:45:05 6 Q Okay. Can you tell what you were trying to  
13:45:06 7 photograph in that?

13:45:07 8 A More of the same footprints, tire tracks.

13:45:11 9 Q 2308?

13:45:12 10 A Okay. This is the same thing. I tried  
13:45:14 11 different -- my flashlight, I believe, was over in this  
13:45:16 12 area and was shining back, and I took the picture and I  
13:45:21 13 was able to get a little bit of what I believed to be tire  
13:45:23 14 track there.

13:45:23 15 Q Okay. 2309?

13:45:32 16 A Again, there's some more of the tire tracks.

13:45:34 17 Q And here?

13:45:35 18 A Going through there.

13:45:36 19 Q Here's 2310, right. More efforts at tire tracks,  
13:45:41 20 right?

13:45:41 21 A More efforts at tire tracks, yes, and I was using  
13:45:43 22 my flashlight, the LED flashlight up there.

13:45:47 23 Q Okay. So would it be fair to state this  
13:45:57 24 particular exhibit, Exhibit Number 2306, other than those  
13:46:06 25 sort of surreal looking photographs, this is probably your

13:46:10 1 best effort at getting a tire track in the lighting that  
13:46:15 2 you had to deal with?

13:46:16 3 A Yes, sir. Because there, it's clearly visible  
13:46:19 4 right there.

13:46:20 5 Q Okay. And after you found these tire tracks and  
13:46:24 6 reported them to the detectives, what did they ask you to  
13:46:27 7 do?

13:46:27 8 A They sent us back over a second time and to put  
13:46:31 9 police tape up around there because they thought something  
13:46:34 10 of this nature may be significant in the case.

13:46:36 11 Q And did you do that?

13:46:37 12 A Yes, sir.

13:46:37 13 Q Okay. Oh. Let me show you what has been marked  
13:47:05 14 as Exhibit Number 631 for identification purposes.

13:47:10 15 May I approach, Judge?

13:47:12 16 THE COURT: You may.

13:47:13 17 MR. BUTNER: We might have -- this is a two sheet  
13:47:15 18 type of exhibit, so we might have to separate it.

13:47:19 19 MR. SEARS: If the State is looking for a  
13:47:20 20 stipulation, I have one, your Honor. We have no objection  
13:47:22 21 to 613.

13:47:25 22 MR. BUTNER: 631.

13:47:26 23 MR. SEARS: I have no objection to 631 either.

13:47:30 24 THE COURT: 631 is admitted.

13:47:32 25 MR. BUTNER: Thank you.

13:47:33 1 I am going on publish if it's okay, then,  
13:47:35 2 Judge?

13:47:36 3 THE COURT: You may.

13:47:45 4 JUROR: Lens cover.

13:47:46 5 MR. BUTNER: Thank you.

13:47:47 6 Q Let me show you -- can't manually focus this, can  
13:48:18 7 you, Phil. Just doesn't have that.

13:48:21 8 THE BAILIFF: No. The other one does.

13:48:23 9 MR. BUTNER: This one does, huh. That's really  
13:48:32 10 helping. No. Okay. About as good as it's going to get,  
13:48:47 11 I'm afraid.

13:48:48 12 Q Okay. Let me show you what has been stipulated  
13:48:52 13 into evidence as Exhibit 631, and do you recognize what's  
13:48:58 14 depicted in this particular exhibit?

13:49:00 15 A Yes. It appears to be a representation of the  
13:49:02 16 layout of the house on Bridle Path.

13:49:06 17 Q Kind of a floor plan, if you will, an overview?

13:49:08 18 A Yes.

13:49:09 19 Q Okay. And the front door being where? Use your  
13:49:16 20 laser pointer, please.

13:49:20 21 A It appears the laser pointer is dead.

13:49:25 22 May I get up and point?

13:49:27 23 Q Sure, you can.

13:49:28 24 A The front door would be right here.

13:49:30 25 Q Okay and then the door which you entered through?

13:49:34 1           **A**     Would be right here.

13:49:35 2           **Q**     Okay. And then where did you go after you  
13:49:38 3 entered?

13:49:39 4           **A**     After we -- after we -- I'd say -- when I say we,  
13:49:43 5 again it is all the deputies and sergeants that were  
13:49:46 6 involved at the time. We made entry here and we came down  
13:49:49 7 through here. As we were making our way, we were clearing  
13:49:53 8 these areas.

13:49:54 9           **Q**     Right.

13:49:54 10          **A**     Came down this hallway. Eventually made it back  
13:49:57 11 here to this back room.

13:49:59 12          **Q**     Okay. And the back room there down on the lower  
13:50:02 13 right-hand portion of the diagram, is that where the body  
13:50:05 14 was located?

13:50:05 15          **A**     Yes.

13:50:06 16          **Q**     In fact, there's kind of a strange looking little  
13:50:13 17 diagram of where the body is located. Pretty close to  
13:50:16 18 where the ladder is, right?

13:50:18 19          **A**     Yes.

13:50:19 20          **Q**     Okay. All right. Thank you.

13:50:25 21                   How long were you out at the Bridle Path  
13:50:49 22 scene and that includes the Glenshandra trailhead, Deputy  
13:50:53 23 Taintor?

13:50:53 24                   Thanks, Phil.

13:50:57 25          **A**     I don't remember. I have my radio logs, if I

13:51:01 1 could refresh my memory.

13:51:02 2 Q Why don't you go ahead and do that.

13:51:32 3 A It appears I was there approximately about four  
13:51:50 4 hours.

13:51:51 5 Q So what time did you leave the scene, so to  
13:51:54 6 speak?

13:51:55 7 A I believe I left the scene about -- I believe I  
13:52:16 8 left the scene about 1:30, quarter to two in the morning.

13:52:21 9 Q 1:30, quarter to two in the morning, and I hear  
13:52:24 10 these dogs barking in the background. Kind of reminds me.

13:52:27 11 Do you know what happened to the dogs?

13:52:30 12 A Eventually the dogs were placed in a room in the  
13:52:34 13 house.

13:52:35 14 Q Okay. Were they placed in the room in the house  
13:52:39 15 by the time you had left the scene?

13:52:41 16 A Yes.

13:52:43 17 Q Do you know how they got to be placed in the room  
13:52:45 18 in the house?

13:52:45 19 A All I know is that another deputy had placed them  
13:52:49 20 there.

13:52:49 21 Q Okay. And those dogs, did you ever check to see  
13:52:54 22 if the dogs had any blood on their feet?

13:52:57 23 A No, sir.

13:52:57 24 Q Did you see any bloody footprints in the hallway?

13:53:00 25 A No, sir.

13:53:01 1 Q At some point in time, did you have to surrender  
13:53:23 2 your boots to somebody?

13:53:26 3 A They asked for a picture of my boots.

13:53:30 4 Q Okay. And what was the purpose for which they  
13:53:32 5 got a picture of your boots?

13:53:34 6 A I can't remember which detective it was, but he  
13:53:37 7 asked for a copy of my boots or a picture of my boots, so  
13:53:41 8 they would be able to tell which footprints were mine at  
13:53:44 9 the Glenshandra scene and also around the perimeter of the  
13:53:48 10 house on Bridle Path, just for elimination, basically.

13:53:54 11 MR. BUTNER: I don't have any further questions  
13:53:56 12 of this witness at this time.

13:54:00 13 CROSS-EXAMINATION

13:54:01 14 MR. SEARS: Thank you.

13:54:01 15 Q Good afternoon, Deputy. I have been told for  
13:54:04 16 some reason for the first time in my career that I am not  
13:54:07 17 speaking loudly enough, so if I'm shouting at you, just  
13:54:10 18 let me know. But I am trying to speak more loudly here in  
13:54:13 19 this crowded courtroom.

13:54:14 20 We have met before. Mr. Robertson and I  
13:54:19 21 conducted an interview of you many months ago. Do you  
13:54:22 22 remember that?

13:54:22 23 A Yes, sir.

13:54:23 24 Q Okay. And let me see if I understand the  
13:54:27 25 sequence of events here. From what you told us on the



13:54:29 1 night of July 2nd, you were at the Sheriff's office here  
13:54:34 2 just a couple of blocks west of this courthouse, 255 East  
13:54:38 3 Gurley Street, a couple blocks east of the courthouse when  
13:54:41 4 you got a call, right?

13:54:42 5 A Yes, sir.

13:54:42 6 Q You got a call from dispatch to respond to this  
13:54:45 7 address out Williamson Valley for a welfare check; is that  
13:54:49 8 right?

13:54:49 9 A Yes, sir.

13:54:50 10 Q And I thought I heard you say the information you  
13:54:52 11 had was that the reporting party said they were on the  
13:54:57 12 phone with the subject and the subject said oh, no and the  
13:55:01 13 phone went quiet or silent, correct?

13:55:03 14 A Yes, sir.

13:55:04 15 Q Okay. Do you remember that the dispatch call may  
13:55:09 16 have included the statement that the subject screamed and  
13:55:14 17 then said oh, no. Did you have that information?

13:55:16 18 A Yes. After I looked back at the transcripts of  
13:55:18 19 the call that I got, the dispatcher did advise me she  
13:55:21 20 heard a scream, oh no, and then the phone went silent.

13:55:25 21 Q Okay. Sequence of events is the dispatcher had  
13:55:29 22 talked to the reporting party. The reporting party had  
13:55:33 23 said that the subject, Ms. Kennedy, screamed and said oh,  
13:55:38 24 no. And then dispatch located you, and that call between  
13:55:41 25 you and dispatch was recorded, correct?

13:55:44 1 A Yes, sir.

13:55:46 2 Q And you have reviewed a transcript of that call?

13:55:47 3 A Yes, sir.

13:55:49 4 Q And in that transcript, the Sheriff's office  
13:55:51 5 dispatcher says the reporting party said the subject  
13:55:55 6 screamed and said oh, no?

13:55:57 7 A I believe they said screamed oh, no or something  
13:56:00 8 to that effect, yes.

13:56:02 9 Q In your mind based on all of your years of  
13:56:05 10 experience, that's a significant statement. When somebody  
13:56:09 11 screams and then the phone goes dead, that would get your  
13:56:11 12 attention, correct?

13:56:12 13 A I was definitely believing that piece of  
13:56:20 14 information I was getting at the time. I don't know  
13:56:22 15 exactly the situation that surrounded this. We get calls  
13:56:27 16 occasionally when something like this could have happened.  
13:56:30 17 Not these exact circumstances, but this sort of thing does  
13:56:34 18 happen when we get requests for a welfare check based on  
13:56:38 19 losing contact over the phone.

13:56:40 20 Q Do you know or do you have records with you to  
13:56:46 21 establish when you got the call from dispatch, what time?

13:56:48 22 A Yes.

13:56:48 23 Q Do you want to take a look -- I assume you don't  
13:56:50 24 have any present recollection of that time?

13:56:51 25 A Yes. May I look at my...

13:56:53 1 Q Please do. Thank you.

13:57:00 2 I won't be as religious as Mr. Butner in  
13:57:01 3 requesting you to look away after you find them.

13:57:09 4 A Okay. I was assigned the call at 20:19, which is  
13:57:14 5 8:19 p.m.

13:57:16 6 Q So that would have been the time of this call  
13:57:18 7 that came from your dispatcher to you that said somebody  
13:57:22 8 needs to go do a welfare check out Williamson Valley; is  
13:57:25 9 that right?

13:57:25 10 A Yes, sir.

13:57:26 11 Q And I assume it took you some period of time at  
13:57:28 12 the Sheriff's office to get yourself together, get what  
13:57:30 13 you needed and get in your vehicle and start driving out  
13:57:32 14 there, correct?

13:57:33 15 A Yes, sir.

13:57:34 16 Q A few minutes?

13:57:34 17 A Yes, sir.

13:57:35 18 Q Did you have to check in with anybody to let them  
13:57:38 19 know where you were going? You were taking this call and  
13:57:40 20 that you would be on route?

13:57:42 21 A I advised dispatch when I was en route to the  
13:57:46 22 call.

13:57:47 23 Q Can you tell from your records when that was?  
13:57:50 24 And if you want to leave them open, I'm okay with that.

13:57:55 25 MR. BUTNER: No objection.

13:57:57 1 THE COURT: Thank you.

13:58:00 2 THE WITNESS: Okay. This does not indicate --  
13:58:03 3 the radio log does not indicate and I've been -- it's been  
13:58:06 4 shown to me. It shows I was assigned to the call. It  
13:58:10 5 doesn't show when I was actually en route. Sometimes when  
13:58:13 6 I get these calls, I will just go ahead and say go ahead  
13:58:16 7 and show my en route or what we call 1019 en route.

13:58:19 8 MR. SEARS:

13:58:19 9 Q That's police code for on route to something?

13:58:22 10 A Yes.

13:58:22 11 Q Okay. And then there's a time of 8:52, 20:52.  
13:58:27 12 Is that when you arrived on scene?

13:58:29 13 A Yes, sir.

13:58:29 14 Q Is there a code for that?

13:58:30 15 A Yes, sir. What we call 97.

13:58:32 16 Q So you were 97 at 20:52?

13:58:37 17 A Yes, sir.

13:58:37 18 Q I like to say that.

13:58:39 19 Okay. And that would have been the time  
13:58:43 20 when you pulled up in the driveway. You would have said  
13:58:46 21 on your radio I'm at the scene or 97 and they would have  
13:58:49 22 copied that comment, right?

13:58:51 23 A Yes, sir.

13:58:52 24 Q Now, let's try and think back, Deputy, to that  
13:58:55 25 night. It's now the middle of the summer. It's in July.

13:59:01 1 You get there. It's a little before nine in the evening;  
13:59:05 2 is that right?

13:59:05 3 A Yes, sir.

13:59:06 4 Q As you're driving down off Williamson Valley  
13:59:11 5 Road. You have to go in some distance off Williamson  
13:59:14 6 Valley before you get to the 7485 location, correct?

13:59:17 7 A Yes, sir.

13:59:17 8 Q Do you have some sense how far it is off  
13:59:19 9 Williamson Valley Road?

13:59:20 10 A I don't.

13:59:21 11 Q If I told you it was roughly a mile, does that  
13:59:23 12 seem about right?

13:59:24 13 A Okay.

13:59:26 14 Q Okay. And you go under overhead power lines  
13:59:29 15 somewhere in the middle of that road; is that right?

13:59:31 16 A I don't recall.

13:59:32 17 Q Do you remember as you were driving down, whether  
13:59:37 18 the houses that you passed on either side of road had  
13:59:39 19 their lights on --

13:59:40 20 A I don't recall.

13:59:41 21 Q -- inside or outside?

13:59:43 22 You said when you got to the scene, if I  
13:59:45 23 understood what you were saying, was that it was -- it was  
13:59:48 24 dark enough that you felt you needed your flashlight to  
13:59:50 25 get around safely?

13:59:51 1 A Yes, sir.

13:59:52 2 Q But you could see the house? That picture we've  
13:59:55 3 seen of the front of the house, you could make out the  
13:59:57 4 house. It wasn't so dark that you couldn't see the house,  
14:00:00 5 right?

14:00:00 6 A Correct.

14:00:01 7 Q As you're thinking here, do you remember  
14:00:02 8 seeing -- as you're sitting in your patrol car, you said  
14:00:06 9 you had your headlights on the house that helped you see  
14:00:09 10 it. Do you remember seeing any lights on from your car at  
14:00:13 11 the house? Either outside or inside?

14:00:16 12 A The only light that I remember seeing was after I  
14:00:20 13 shut my lights off, because it's a very dim little blue  
14:00:23 14 light emanating from that window -- emanating from that  
14:00:26 15 window to the left of the front door.

14:00:28 16 Q Did you have to be up on the front porch to see  
14:00:30 17 that little blue light?

14:00:31 18 A I remember seeing it while I was walking up to  
14:00:34 19 the front door.

14:00:35 20 Q Okay. And you said you thought it was associated  
14:00:37 21 with a wireless internet router?

14:00:40 22 A Yeah. Some type of network router. Something to  
14:00:42 23 do with computers I would imagine.

14:00:44 24 Q Just that LED blue light that is on all the time?

14:00:46 25 A And that it was flickering, I believe.

14:00:48 1 Q Do you remember any other lights on either inside  
14:00:53 2 or outside of the house?

14:00:55 3 A No, sir, I don't.

14:00:56 4 Q I may have asked the question in an awkward way.  
14:01:01 5 Are you saying there were no lights on or you just don't  
14:01:03 6 remember whether they --

14:01:04 7 A I don't remember if there were any other lights  
14:01:06 8 on inside or outside.

14:01:07 9 Q So there may have been and you just don't  
14:01:09 10 remember?

14:01:09 11 A It's possible.

14:01:10 12 Q And so you went up the concrete steps, stood on  
14:01:15 13 the front porch, knocked on the door?

14:01:18 14 A Yes, sir.

14:01:18 15 Q Okay. Did you call out and say police or hello  
14:01:23 16 or anything like that?

14:01:24 17 A I don't recall.

14:01:26 18 Q Was there a standard practice that you would have  
14:01:29 19 followed?

14:01:32 20 A I don't recall if I announced myself at the front  
14:01:35 21 door of the main house. I remember I did at the garage or  
14:01:38 22 the guesthouse.

14:01:40 23 Q Right. We'll get there in just a second.

14:01:42 24 So you didn't get any answer from inside,  
14:01:43 25 but you thought you could hear the dogs barking, right?

14:01:45 1           **A**     Yes. I did hear dogs barking, yes.

14:01:48 2           **Q**     A high pitch bark? Deep booming bark? Anything  
14:01:51 3 particular about it?

14:01:52 4           **A**     What I recall when I knocked on the door, it  
14:01:54 5 sounded like small dogs barking.

14:01:56 6           **Q**     Yippee dogs?

14:01:58 7           **A**     Yes.

14:01:58 8           **Q**     Okay. And you looked in the -- as you're  
14:02:02 9 standing looking at the door, there's a window to the  
14:02:04 10 right, correct?

14:02:04 11          **A**     Yes.

14:02:06 12          **Q**     And you looked in that window with your  
14:02:08 13 flashlight and you saw the dogs?

14:02:09 14          **A**     I saw the dining room table and I was looking  
14:02:11 15 around and I saw the dogs standing in front of that  
14:02:14 16 window, yes, and they were looking up at me.

14:02:15 17          **Q**     And barking?

14:02:16 18          **A**     And barking.

14:02:17 19          **Q**     Okay. Did you look anywhere else around inside  
14:02:21 20 through that window?

14:02:23 21          **A**     I did. I took a quick glance in there and I  
14:02:26 22 didn't see -- you know, I'm indicating that I am shining  
14:02:27 23 my flashlight in there and I did not see anything else  
14:02:30 24 suspicious in that part of the house.

14:02:31 25          **Q**     Okay. So then you backed out and you moved



14:02:34 1 around -- I think maybe this would be a good time to get  
14:02:36 2 that floor plan up here. There we go. Okay.

14:02:54 3 All right. Could I have the laser pointer.

14:02:57 4 THE COURT: Still Exhibit 631.

14:03:00 5 MR. SEARS: Thank you, your Honor.

14:03:04 6 Yep. We're in business. Okay.

14:03:06 7 Q Now, so we can orient ourselves here, this is  
14:03:10 8 631. There is the floor plan of the main residence and  
14:03:13 9 this direction here off to the right is north, correct?

14:03:17 10 A Yes.

14:03:17 11 Q Okay. And so the front of the house -- Bridle  
14:03:22 12 Path is up here and when it gets past the house, it makes  
14:03:24 13 a 90 degree turn to the west, right?

14:03:28 14 A Yes.

14:03:29 15 Q Okay. And out in the front here, we will look at  
14:03:32 16 some pictures here in a minute, but there is a low stucco  
14:03:35 17 wall and kind of a circular driveway out in the front of  
14:03:39 18 the house here, right?

14:03:40 19 A Yes, sir.

14:03:40 20 Q And you drove down Bridle Path and you went  
14:03:42 21 through that opening in the wall, and you parked your  
14:03:44 22 patrol vehicle somewhere out in front here, correct?

14:03:48 23 A Yes, sir.

14:03:48 24 Q All right. And you came up the steps. Here's  
14:03:51 25 the front door that you were knocking on, and you didn't

14:03:54 1 hear anything. And then this is -- there's a window right  
14:03:57 2 on this wall here. That's the window you were looking  
14:03:59 3 through, correct?

14:04:00 4 **A** Yes, sir.

14:04:00 5 **Q** And the dining room table sits right in here and  
14:04:03 6 you're looking in and the dogs are between the table and  
14:04:05 7 the window, correct?

14:04:06 8 **A** Yes, sir.

14:04:06 9 **Q** All right. And then, if I understand what you  
14:04:09 10 did, you went down off the porch and this is a block wall  
14:04:13 11 that's connected to the house, correct?

14:04:15 12 **A** Yes, sir.

14:04:15 13 **Q** And you walked around that and when you get out  
14:04:17 14 in here, there's that archway that you saw a picture of,  
14:04:20 15 right?

14:04:20 16 **A** Yes, sir.

14:04:21 17 **Q** And you walk through the archway and then went  
14:04:23 18 back towards the house and you could see this is the door  
14:04:27 19 that goes into that same dining room, correct?

14:04:30 20 **A** Ah, before I did that, I went into the -- towards  
14:04:35 21 the guesthouse when I came to that "T."

14:04:36 22 **Q** Right. I am going to skip that part of the story  
14:04:38 23 here for a second because we don't have a picture of the  
14:04:41 24 guesthouse.

14:04:41 25 **A** Okay.

14:04:41 1 Q But I am just going to try to focus on what you  
14:04:43 2 did at the main house.

14:04:43 3 A Okay.

14:04:44 4 Q I understand you went over and went inside the  
14:04:46 5 guesthouse and did what you did, but when you came back,  
14:04:48 6 you went up and you went to this door here, right?

14:04:50 7 A Yes, sir.

14:04:50 8 Q Okay. Can you describe this door a little bit?

14:04:53 9 A As we saw on the pictures, it was a glass pane  
14:04:58 10 window or, you know, that door that you could see in and  
14:05:01 11 out of. Pretty much the whole length of the door.

14:05:03 12 Q Okay. And it had what kind of a doorknob or  
14:05:07 13 lever or handle? Do you remember?

14:05:08 14 A I don't recall.

14:05:09 15 Q Deputy, were you wearing gloves on your hands?

14:05:12 16 A No, I was not at this point.

14:05:14 17 Q Okay. So did you touch the front doorknob?

14:05:18 18 A I don't recall.

14:05:19 19 Q At some point you determined -- we will talk  
14:05:22 20 about that -- that this front door was locked, right?

14:05:24 21 A Yes, sir.

14:05:24 22 Q Do you think you determined it was locked when  
14:05:26 23 you first came up to it?

14:05:27 24 A I don't remember.

14:05:33 25 Q Okay. But do you remember apparently finding

14:05:37 1 that this door here, full glass door, was unlocked?

14:05:41 2 A Yes, sir, because I manipulated the handle.

14:05:44 3 Q And it opened. Did you actually open it a little  
14:05:46 4 bit?

14:05:46 5 A I believe I opened it about an inch.

14:05:48 6 Q Did it open in or out?

14:05:49 7 A I believe it opened in.

14:05:51 8 Q Okay. And the dogs had come around now and they  
14:05:55 9 were waiting for you at this door?

14:05:56 10 A Yes.

14:05:56 11 Q And you could see them and they were continuing  
14:05:59 12 to yip, right?

14:05:59 13 A Yes, sir.

14:06:00 14 Q Okay. And did you have your flashlight in one  
14:06:02 15 hand?

14:06:03 16 A Yes.

14:06:04 17 Q Okay. So when you found that door was open and  
14:06:07 18 then you decided you didn't want to venture into the house  
14:06:10 19 at that point because no one's answering. Is that fair to  
14:06:12 20 say?

14:06:12 21 A That's correct.

14:06:13 22 Q Okay. So you started working your way around the  
14:06:16 23 house and in kind of a counter -- you were going to  
14:06:18 24 eventually do a counter clockwise sweep around the house,  
14:06:21 25 right?

14:06:21 1 A Yes, sir.

14:06:21 2 Q And on this side here which you call the south  
14:06:24 3 side, it doesn't look like there are any other doors along  
14:06:27 4 the south side other than this first one that you found  
14:06:30 5 was unopened, right?

14:06:31 6 A Yes.

14:06:31 7 Q Okay. But there were windows you were looking  
14:06:33 8 in, right?

14:06:34 9 A Yes, sir.

14:06:35 10 Q Okay. Do you remember where the windows were  
14:06:38 11 along this south wall?

14:06:40 12 A I would have to look at the pictures. I don't  
14:06:45 13 remember.

14:06:45 14 Q Okay.

14:06:46 15 A But I knew there were several there and some of  
14:06:48 16 them had those glass -- those glass block privacy window  
14:06:52 17 type things.

14:06:53 18 Q Right. That you can't see through?

14:06:55 19 A Yes.

14:06:55 20 Q Okay. And at some point you got down here, this  
14:06:58 21 bedroom down in the corner, which would be the southeast  
14:07:04 22 corner of the house down here, right?

14:07:06 23 A Yes.

14:07:08 24 Q Okay. There's another glass door that goes in  
14:07:12 25 there. Do you think there's a window in this wall?

14:07:14 1           **A**     I believe there was.

14:07:15 2           **Q**     Okay.  Either -- I think you said either by  
14:07:18 3 looking in that window or looking in this door, you  
14:07:20 4 determined that this was a bedroom, probably the master  
14:07:22 5 bedroom, right?

14:07:23 6           **A**     That's what I believed it to be, a bedroom.

14:07:25 7           **Q**     Okay.  Pretty large bed over in this area, right?

14:07:29 8           **A**     I don't recall where the furniture was placed.

14:07:31 9           **Q**     Okay.  And then up in here you later determined  
14:07:34 10 that there is -- this is a bathroom and closet area,  
14:07:36 11 right?

14:07:37 12           **A**     That's after we were actually inside, we  
14:07:40 13 determined what was where.

14:07:41 14           **Q**     Yeah.  Right.  You couldn't see that from the  
14:07:42 15 outside.

14:07:43 16                   Okay.  Now, on this -- on this east side of  
14:07:46 17 the house, there's a porch, right, that runs the length of  
14:07:51 18 the east side of that overhang?

14:07:52 19           **A**     Yes, sir.

14:07:53 20           **Q**     And a concrete slab that comes out from the  
14:07:57 21 house; is that right?

14:07:57 22           **A**     Yes, sir.

14:07:58 23           **Q**     Okay.  So you still didn't see any signs of life  
14:08:02 24 and you are moving around and now you're at a window.  
14:08:04 25 This is a window that looks into the room where the body

14:08:06 1 was. This is still in the east side, and then there's the  
14:08:09 2 door we have seen a picture of on the north side, right?

14:08:12 3 A Yes, sir.

14:08:13 4 Q Okay. Do you think it was through this window on  
14:08:15 5 the east side that you looked into and saw the body?

14:08:17 6 A Yes, sir. That's where I initially saw Carol.

14:08:21 7 Q Now, we can't really see -- we'll see lots of  
14:08:23 8 pictures and a better diagram here in a bit. But on  
14:08:27 9 this -- this is the ladder that we saw the picture of and  
14:08:30 10 this -- these are some bookshelves, some tall standing  
14:08:33 11 bookshelves. Could you see past those bookshelves from  
14:08:36 12 this window and look right at the body?

14:08:38 13 A I can't remember how much of the body that I saw  
14:08:43 14 other than the fact that I do remember seeing her lying  
14:08:45 15 there pretty much face down and blood in the area.

14:08:52 16 Q Okay. Going back. What was the condition of  
14:08:54 17 this door? Locked or unlocked?

14:08:58 18 A I don't recall without looking at my notes.

14:09:01 19 Q Can you. Can you find them?

14:09:03 20 A I have them.

14:09:05 21 Q Yeah. Or I have got a photocopy.

14:09:12 22 A That's easier.

14:09:14 23 Q That envelope?

14:09:17 24 May I approach, your Honor?

14:09:18 25 THE COURT: You may.

14:09:21 1 THE WITNESS: Okay. I indicated here the master  
14:09:24 2 bedroom door was locked.

14:09:25 3 MR. SEARS:

14:09:25 4 Q Okay. So to recap, the front door is locked,  
14:09:28 5 right?

14:09:29 6 A Yes.

14:09:30 7 Q The dining room door is unlocked, correct?

14:09:32 8 A Yes, sir.

14:09:32 9 Q Then the next door is this master bedroom and  
14:09:35 10 it's locked, right?

14:09:36 11 A Yes, sir.

14:09:36 12 Q Okay. And this is a window, correct?

14:09:39 13 A Yes, sir.

14:09:40 14 Q Okay. When you get around to this door here, now  
14:09:43 15 I -- I have the impression this is where you stopped,  
14:09:46 16 right, and backed off and went all the way back around to  
14:09:48 17 your car, correct?

14:09:49 18 A Yes, sir.

14:09:50 19 Q When you saw that? You didn't keep on going  
14:09:51 20 around to the north side?

14:09:53 21 A I did not continue past that -- past the window.

14:09:56 22 Q Okay. All right. So let's go back. This would  
14:10:01 23 probably be a good time to talk about what you did over  
14:10:02 24 here at the guesthouse.

14:10:04 25 When you got, if I understood what you're



14:10:06 1 saying, when you got to the front door, you didn't raise  
14:10:09 2 anybody. It was locked. You went down and you said, oh,  
14:10:13 3 here's this other structure over here. Let me see what is  
14:10:16 4 going on over there, right?

14:10:17 5 **A** Yes, sir.

14:10:18 6 **Q** Was it apparent to you as you walked up to it  
14:10:20 7 that it was a place where people lived or did it look like  
14:10:22 8 a garage to you?

14:10:23 9 **A** I don't recall.

14:10:26 10 **Q** But you went over and we saw the picture of the  
14:10:28 11 door and the door here on the east side of that  
14:10:31 12 guesthouse, right?

14:10:31 13 **A** Yes, sir.

14:10:32 14 **Q** Okay. Do you have some sense how far away the  
14:10:34 15 guesthouse is from the main house?

14:10:35 16 **A** I don't remember -- I don't really know. I never  
14:10:41 17 took the measurements.

14:10:42 18 **Q** Is it a very long distance?

14:10:43 19 **A** Not a real long distance, no.

14:10:45 20 **Q** 30 yards? 50 yards? Less?

14:10:48 21 **A** Probably less.

14:10:50 22 **Q** A hundred feet?

14:10:51 23 **A** I don't know.

14:10:52 24 **Q** Okay. But it's close. It's close, right?

14:10:54 25 **A** Yes.

14:10:54 1 Q And it is basically a garage looking structure,  
14:10:59 2 but at one end there is a guest quarters living space with  
14:11:03 3 a bathroom and then you go through a door into the garage  
14:11:05 4 area, correct?

14:11:06 5 A Yes, sir.

14:11:06 6 Q And the garage door for that guesthouse then  
14:11:08 7 would face the street. Would be on the west side,  
14:11:11 8 correct?

14:11:12 9 A I don't recall which -- where I saw the garage  
14:11:17 10 doors, if they --

14:11:17 11 Q For the guesthouse?

14:11:18 12 A Yes.

14:11:19 13 Q All right. You didn't see any vehicles parked  
14:11:21 14 outside the entire time you were there except for that  
14:11:24 15 white pickup truck that arrived and law enforcement,  
14:11:26 16 right? You didn't see any other unidentified vehicles?

14:11:29 17 A No.

14:11:29 18 Q There were no vehicles in this area when you  
14:11:32 19 drove up, correct?

14:11:32 20 A Not -- you're talking about in the driveway area?

14:11:35 21 Q Yes.

14:11:36 22 A No. There was nothing -- there was nothing in  
14:11:38 23 the driveway after I arrived except my vehicle.

14:11:41 24 Q Okay. It turned out there was a vehicle in the  
14:11:44 25 garage connected to the main house, right?

14:11:46 1           **A**     I believe there were several vehicles.

14:11:49 2           **Q**     Okay. And were there any lights on in the  
14:11:51 3     guesthouse?

14:11:51 4           **A**     There was -- there was lights from like the stove  
14:11:57 5     top, VCR flashing, microwave. Stuff like that, but no  
14:12:02 6     actual, you know, reading lights or anything like that on.

14:12:04 7           **Q**     So you went over to the guesthouse and the door  
14:12:06 8     to the guesthouse was open, right?

14:12:08 9           **A**     It's unlocked, yes.

14:12:10 10          **Q**     And you go in calling out?

14:12:12 11          **A**     I knock on the door. I don't get anybody. I  
14:12:15 12     check the door handle. It's unlocked. I announce myself  
14:12:20 13     and then I step on inside.

14:12:22 14          **Q**     Okay. With your flashlight?

14:12:24 15          **A**     With my flashlight.

14:12:24 16          **Q**     You don't turn on the lights?

14:12:25 17          **A**     I don't turn on any lights.

14:12:26 18          **Q**     Okay. You look around and you see somebody lives  
14:12:29 19     in here, correct?

14:12:30 20          **A**     It appeared to be living quarters, yes.

14:12:32 21          **Q**     And are you calling out anybody here or police or  
14:12:34 22     something like --

14:12:35 23          **A**     Yeah. Sheriff's office, anybody home, stuff to  
14:12:38 24     that nature.

14:12:38 25          **Q**     Okay. And you go through that area and you

14:12:41 1 said -- I think you said the first time you opened the  
14:12:43 2 door that connects the living area to the garage part?

14:12:46 3 A Oh, the outbuilding? Yes.

14:12:50 4 Q Did you go down into the garage?

14:12:52 5 A No, I did not.

14:12:52 6 Q Did you look in?

14:12:53 7 A Yes.

14:12:54 8 Q What did you see?

14:12:54 9 A I don't remember. I was looking for people. I  
14:12:57 10 didn't see anybody in there.

14:12:58 11 Q Did you see a lot of place where people might be?

14:13:00 12 A I don't recall.

14:13:04 13 Q For example, did you see that there was a loft in  
14:13:06 14 the garage, that there was some wooden steps up to a loft?  
14:13:09 15 Did you see that?

14:13:09 16 A Not that I remember.

14:13:11 17 Q Okay. Do you remember there being a lot of  
14:13:13 18 objects, a lot of shelves and boxes and furniture in the  
14:13:16 19 garage?

14:13:16 20 A I don't remember.

14:13:17 21 Q Did you see a vehicle in the garage of the  
14:13:19 22 guesthouse?

14:13:20 23 A I don't remember.

14:13:22 24 Q But you were satisfied that there was nobody in  
14:13:25 25 there that was going to cause you a problem?

14:13:26 1 A That's -- that's correct.

14:13:28 2 Q And nobody there that you would be looking for on  
14:13:30 3 this welfare call?

14:13:31 4 A That's correct.

14:13:32 5 Q Okay. Then you went back and you went around  
14:13:34 6 until you saw the body and backed out.

14:13:36 7 Now, let me see if I understand what you are  
14:13:38 8 saying. You went back to your vehicle, which was parked  
14:13:41 9 up here. Parked out here in front of the house. You went  
14:13:45 10 back to your patrol vehicle, right?

14:13:46 11 A Yes, sir.

14:13:47 12 Q And you used the radio there?

14:13:48 13 A Yes, sir.

14:13:48 14 Q And you got this information that Sergeant Acton  
14:13:52 15 had been looking -- when everybody wanted to make sure you  
14:13:54 16 were okay, right?

14:13:55 17 A Yes, sir. Dispatch had wondered how I was doing.  
14:13:59 18 They -- what we call a code 500. Checking my welfare.

14:14:01 19 Q Okay. Because you were going to a scene and if  
14:14:04 20 they haven't heard from you for a while, they would like  
14:14:06 21 to make sure you're okay, right?

14:14:07 22 A Yes.

14:14:08 23 Q That's standard procedure, right?

14:14:09 24 A Yes, sir.

14:14:09 25 Q And then you heard Sergeant Acton was en route.

14:14:13 1 She was coming, right?

14:14:14 2 A Yes, sir.

14:14:15 3 Q And you told them what you had, right?

14:14:17 4 A I did not tell dispatch what was going on at the  
14:14:20 5 time.

14:14:20 6 Q You used your cell phone to call Sergeant Acton?

14:14:22 7 A Yes.

14:14:23 8 Q Is there a reason you did that?

14:14:24 9 A I just knew she had a cell phone available. I  
14:14:27 10 just wanted to let her know what I have and wanted to make  
14:14:30 11 sure she was coming.

14:14:31 12 Q What did you tell her?

14:14:32 13 A Well, I told her that -- of the situation. That  
14:14:40 14 I had a white female that was down and it was suspicious  
14:14:45 15 circumstances.

14:14:47 16 Q Had you seen enough from the window, Deputy, to  
14:14:49 17 convince yourself that there was no need to rush to get  
14:14:52 18 emergency medical treatment for this poor lady?

14:14:54 19 A It -- I didn't see any movement. I didn't, you  
14:14:58 20 know, didn't hear anything coming from the body.

14:15:00 21 Q A lot of blood?

14:15:01 22 A And there was blood.

14:15:03 23 Q Okay. So it wouldn't have been something where  
14:15:06 24 it would have made any sense for you to try and get in  
14:15:07 25 that house right away to see if you could help her?

14:15:09 1           **A**     Not knowing what was in the house at the time  
14:15:11 2     other than what I saw --

14:15:13 3           **Q**     Right.

14:15:13 4           **A**     -- it was just one of those instances where you  
14:15:15 5     know there's something that is not quite right.

14:15:17 6           **Q**     Right. Okay. So then if I understand what you  
14:15:20 7     have said is you sat there for a while waiting for  
14:15:23 8     Sergeant Acton --

14:15:25 9           **A**     Yes, sir.

14:15:25 10          **Q**     -- to arrive, but at some point you got out and  
14:15:28 11     went to the -- to this corner here, this southwest corner?

14:15:31 12          **A**     It was actually not on -- anywhere around the  
14:15:34 13     house. It was on the property. It was out towards that  
14:15:38 14     stucco type -- in front of the fence that we were talking  
14:15:42 15     about out on that corner that you were pointing to out in  
14:15:44 16     that direction.

14:15:44 17          **Q**     So you could see -- you could see the front and  
14:15:47 18     this side entrance. From the point over here, you could  
14:15:49 19     see this part of the house, right?

14:15:50 20          **A**     I could see -- I could see the part of the house  
14:15:54 21     that is facing to the -- facing the west and also a  
14:15:59 22     portion of the out building. I can't remember if I was  
14:16:02 23     able to see that -- that door that we eventually made  
14:16:05 24     entry into. I don't remember.

14:16:06 25          **Q**     There is that pretty tall block wall right in

14:16:09 1 your way, right?

14:16:09 2 **A** Yes, sir.

14:16:10 3 **Q** Okay. Did that concern you that -- you're out  
14:16:12 4 there by yourself. You have got a pretty serious  
14:16:15 5 incident. You've got somebody that's badly injured or  
14:16:18 6 deceased in there -- that you couldn't see this whole back  
14:16:20 7 side of the house?

14:16:21 8 **A** It -- it was a concern, but there was nothing I  
14:16:24 9 could do about it.

14:16:25 10 **Q** Right. I mean, it wouldn't -- would it have been  
14:16:27 11 safe for you to walk around, to start making circles  
14:16:29 12 around the house until Sergeant Acton arrived?

14:16:31 13 **A** I did not feel comfortable doing that, no.

14:16:34 14 **Q** Okay. And you told us before, and we are going  
14:16:36 15 to look at some pictures here in a bit. There is -- you  
14:16:38 16 could see, when you went around the back side, there is a  
14:16:40 17 fence here and there appears to be open ranch land  
14:16:43 18 directly to the east of this property, right?

14:16:46 19 **A** Yes, sir.

14:16:46 20 **Q** Okay. And you patrolled this area and you know  
14:16:49 21 that it's a very very large ranch that comes up and  
14:16:52 22 borders this property, right?

14:16:54 23 **A** I patrolled the area, but I have never been back  
14:16:57 24 in that area, so I didn't know exactly how extensive that  
14:17:00 25 area was.



14:17:00 1 Q You do now though?

14:17:01 2 A Yes, sir.

14:17:02 3 Q You know it's a vast ten thousand --

14:17:04 4 A You told me that, yes, sir.

14:17:06 5 Q Okay. Okay. And we will show you some pictures

14:17:09 6 that will perhaps make it even more obvious what we're

14:17:12 7 talking about, but you knew there was open land. There

14:17:15 8 were no more houses back here, right?

14:17:16 9 A No.

14:17:17 10 Q As far as -- okay. Now, how about neighbor

14:17:21 11 houses? By the time you are here, do you see lights on?

14:17:23 12 And here's the Drakes' house actually over here, right?

14:17:26 13 A Yes, sir.

14:17:26 14 Q Do you see lights on at their house?

14:17:28 15 A I don't remember.

14:17:29 16 Q How about across? There are houses all around

14:17:33 17 here. There's houses here. It becomes -- kind of turns

14:17:36 18 and becomes a little road called Jockey Path. Do you see

14:17:38 19 lights on in any of these other houses?

14:17:40 20 A Not at that time. I don't remember seeing -- I

14:17:43 21 don't remember seeing any lights. I know when we started

14:17:45 22 doing knocking and going around the neighborhood and

14:17:47 23 talking to the neighbors, there were lights on.

14:17:48 24 Q Okay. That's much --

14:17:49 25 A When I was there initially at that point, I don't

14:17:52 1 remember.

14:17:52 2 Q Okay. And you didn't have your overhead lights  
14:17:54 3 going on in your vehicle, right?

14:17:55 4 A No, sir.

14:17:55 5 Q Okay. And when Sergeant Acton came up, she  
14:17:59 6 didn't have her emergency lights on either, did she?

14:18:02 7 A I don't remember.

14:18:05 8 Q Okay. So she comes up. So you think it might  
14:18:08 9 have been 15 or 20 minutes or that's just how long it felt  
14:18:11 10 like?

14:18:11 11 A It was -- when I looked at that radio log there,  
14:18:18 12 I believe it was approximately 20 minutes.

14:18:19 13 Q Can you look again.

14:18:32 14 A I arrived at the scene at 20:52. Sergeant Acton  
14:18:35 15 arrived on scene at 21:10.

14:18:39 16 Q Okay. And Mr. Knapp rolls up sometime right  
14:18:42 17 after 9:10, after 21:10?

14:18:45 18 A Yes. He rolls up sometime between 21:10 and  
14:18:52 19 21:16 is when we actually did a license check on him.

14:18:54 20 Q Okay. And he just appears?

14:18:57 21 A He comes around the corner from -- you said it  
14:19:01 22 makes that 90 degree bend right over there on the --  
14:19:05 23 what's that -- the north -- northwest.

14:19:08 24 Q Up in here?

14:19:08 25 A Yeah.

14:19:09 1 Q Where it turns?

14:19:10 2 A He comes around there and starts to pull into the  
14:19:11 3 driveway.

14:19:12 4 Q He doesn't come down Bridle Path?

14:19:14 5 A I believe he came -- I believe he came around  
14:19:18 6 that other way.

14:19:20 7 Q You saw him heading in. You could see his lights  
14:19:22 8 and he was coming in?

14:19:23 9 A I don't remember seeing his lights. His lights  
14:19:26 10 had to be on, of course, but I don't remember seeing that  
14:19:29 11 coming down the road. I just remember seeing him pulling  
14:19:31 12 into the driveway.

14:19:32 13 Q Okay. But your impression was that he wasn't  
14:19:35 14 coming -- Bridle Path kind of runs, as Mr. Butner said, in  
14:19:38 15 an easterly direction here way out here to Williamson  
14:19:42 16 Valley Road and it comes in and when it gets past this  
14:19:43 17 house, it makes this 90 degree turn.

14:19:46 18 A Yes, sir.

14:19:46 19 Q And your impression was that Mr. Knapp was  
14:19:48 20 coming -- he wasn't coming down Bridle Path and turning  
14:19:51 21 in. You felt like he was coming down from the other  
14:19:53 22 direction and turning in?

14:19:54 23 A That's what I recall.

14:19:55 24 Q Okay. When he did that, you were out with  
14:19:58 25 Sergeant Acton out in this area; is that right?

14:20:01 1           **A**     Yes. We weren't -- we weren't exactly standing  
14:20:03 2 side by side, because she is the one that stopped him  
14:20:06 3 right as he started to enter into the driveway.

14:20:08 4           **Q**     Okay. And at that point you were waiting for the  
14:20:11 5 rest of the team to arrive. You were waiting for  
14:20:14 6 Schilling and Howard and Joy to show up, correct?

14:20:16 7           **A**     And Boan.

14:20:18 8           **Q**     Deputy Boan. That was everybody that had been  
14:20:21 9 called out at this point?

14:20:22 10          **A**     Yes, sir.

14:20:24 11          **Q**     To add to just you and Sergeant Acton, correct?

14:20:26 12          **A**     Yes, sir.

14:20:27 13          **Q**     Was Sergeant Acton your sergeant then?

14:20:28 14          **A**     Yes, sir, she was.

14:20:29 15          **Q**     Okay. And so Mr. Knapp comes and she talks to  
14:20:34 16 Mr. Knapp. Gets his ID. Runs a wants and warrants for  
14:20:37 17 him with his ID, right?

14:20:39 18          **A**     That's correct.

14:20:40 19          **Q**     Okay. And vehicle driver status and other things  
14:20:43 20 you can do from a driver's license, correct?

21          **A**     Yes, sir.

14:20:45 22          **Q**     While he's standing by, did you chat with him?

14:20:48 23          **A**     I don't recall. I don't believe so.

14:20:50 24          **Q**     Okay. How was he dressed?

14:20:52 25          **A**     I don't recall.

14:20:55 1 Q Did anybody pat him down?

14:20:58 2 A I don't recall. I didn't.

14:21:00 3 Q Did anybody search his vehicle?

14:21:03 4 A I don't know. I didn't.

14:21:05 5 Q Other people might know?

14:21:06 6 A Possibly.

14:21:07 7 Q Did he get back to -- did he get out of his

14:21:11 8 vehicle while you were there?

14:21:12 9 A Initially when Sergeant Acton was talking with

14:21:20 10 him?

14:21:20 11 Q Yes, sir.

14:21:21 12 A I don't believe he got out of his vehicle at that

14:21:23 13 time.

14:21:24 14 Q Did you see him later get out of his vehicle?

14:21:26 15 A I don't recall.

14:21:28 16 Q That might have something to do with whether you

14:21:32 17 can remember how he was dressed or not if you never saw

14:21:34 18 him outside?

14:21:35 19 A Possibly.

14:21:36 20 Q Okay. All right. And at some point Sergeant

14:21:40 21 Acton had him get off the property and go back out through

14:21:43 22 this opening and park out on the road?

14:21:45 23 A Yes. She told him back out and park along the

14:21:48 24 road.

14:21:48 25 Q And he did that?

14:21:49 1 A Yes.

14:21:49 2 Q Did he then come back on to the property or did  
14:21:53 3 he stay with his vehicle?

14:21:54 4 A To my knowledge, he was never permitted back on  
14:21:57 5 to the property while I was there.

14:21:59 6 Q Okay. All right. So eventually can you tell  
14:22:02 7 from your radio log what time the rest of the officers  
14:22:07 8 arrived so that you could start this entry?

14:22:09 9 A Sergeant Howard and Deputies Boan, Schilling and  
14:22:21 10 Joy all arrived at 21:17 hours.

14:22:25 11 Q Okay. So that's about 25 -- 25 minutes after you  
14:22:29 12 first arrived on scene. If you got there at 20:52 and  
14:22:33 13 they got there at 21:17, That is about 25 minutes?

14:22:35 14 A Yes. Approximately.

14:22:37 15 Q Okay. And the largest part -- it just took you a  
14:22:39 16 few minutes apparently to make this sweep and discover the  
14:22:42 17 body and call Sergeant Acton and the next part of the time  
14:22:46 18 was waiting for everybody to get there, right?

14:22:48 19 A Yes, sir.

14:22:48 20 Q Okay. When they got there, was anyone dressed in  
14:22:53 21 tactical gear and SWAT gear?

14:22:55 22 A No. We were all dressed in our normal Class B  
14:22:58 23 uniforms.

14:22:58 24 Q What you have on right now?

14:22:59 25 A Similar, yes.

14:23:01 1 Q Okay. And with that comfortable summer-time body  
14:23:05 2 armor?

14:23:05 3 A Yes.

14:23:06 4 Q And it was a hot, hot night?

14:23:07 5 A I don't remember what the temperature was.

14:23:09 6 Q It was July?

14:23:10 7 A It was the early part of July.

14:23:11 8 Q Chances are it was hot.

14:23:13 9 Okay. And so if I understand this -- some  
14:23:16 10 assignments were made. As between Sergeant Acton and  
14:23:19 11 Sergeant Howard, did you get the impression that one or  
14:23:21 12 the other of them was now running this?

14:23:24 13 A I believe Sergeant Acton was -- was pretty much  
14:23:29 14 had taken charge.

14:23:30 15 Q And she then -- there was a decision made that  
14:23:33 16 the group of you would first go over and you got to this  
14:23:36 17 arch and they said let's go over to the guesthouse and you  
14:23:39 18 and Sergeant Acton peeled off and the other three stood  
14:23:42 19 by, right?

14:23:42 20 A That is correct.

14:23:44 21 Q Did anybody have their weapons drawn?

14:23:45 22 A When we -- before we made entry, yes.

14:23:48 23 Q How about when you and Sergeant Acton went back  
14:23:51 24 to the guesthouse again?

14:23:52 25 A Yes.

14:23:53 1 Q Weapons -- handguns?

14:23:54 2 A Yes, sir.

14:23:54 3 Q Anybody have any automatic weapons or rifles or

14:23:58 4 anything? Do you remember?

14:23:59 5 A I don't recall.

14:24:00 6 Q Okay. And -- but everybody had a handgun drawn?

14:24:04 7 A At least, yes.

14:24:05 8 Q What if --

14:24:08 9 A Well, you made inference that somebody might have

14:24:09 10 been having long guns, so -- I don't remember what

14:24:12 11 everybody had, but we had at least a handgun.

14:24:14 12 Q If somebody had a rifle or something else, they

14:24:17 13 likely would have had that out, right?

14:24:19 14 A That's correct.

14:24:19 15 Q Okay. And so you and Sergeant Acton went back

14:24:23 16 over this time and you were going to do another protective

14:24:26 17 sweep of this guest area garage. Is that what you did?

14:24:30 18 A Yes, sir.

14:24:30 19 Q All right. And so you go through the same door

14:24:33 20 and are you telling Sergeant Acton what you had seen?

14:24:37 21 Here's a living area? There is a garage over here?

14:24:40 22 A Well, we discovered that -- she discovered that

14:24:44 23 when we went through there for sure. I don't remember if

14:24:46 24 I told her that before we actually made entry in there. I

14:24:48 25 told her it was a guesthouse or, you know, living



14:24:51 1 quarters.

14:24:51 2 Q And there was no one around?

14:24:53 3 A And there was no one inside.

14:24:54 4 Q But she wanted to double check?

14:24:55 5 A Because I couldn't see that door, yes.

14:24:57 6 Q Okay. And -- couldn't see what door?

14:25:00 7 A She could not see the door to the guesthouse from  
14:25:03 8 the position that I had taken up outside at the edge of  
14:25:05 9 the property.

14:25:06 10 Q Oh, okay.

14:25:07 11 A I could not -- we could not see that. You know,  
14:25:09 12 there could have been movement between houses or around.

14:25:11 13 Q Somebody could have gone -- while you were out  
14:25:13 14 here waiting for her to show up, she is thinking somebody  
14:25:16 15 could have got into guesthouse?

14:25:17 16 A That's possible, yes.

14:25:18 17 Q Or --

14:25:19 18 A And that's what --

14:25:20 19 Q Out of the house or who knows what, right?

14:25:21 20 A Yes, sir. And that is what my thinking was.

14:25:23 21 Q Right. And so how long do you think you were in  
14:25:26 22 the guesthouse this second time with Sergeant Acton?

14:25:28 23 A I don't recall.

14:25:31 24 Q A couple minutes?

14:25:33 25 A Probably took a couple of minutes.

14:25:35 1 Q Okay. And going through, opening doors, and  
14:25:37 2 looking in the bathroom, and -- you said she went down  
14:25:41 3 into the garage?

14:25:42 4 A I believe she did, yes.

14:25:43 5 Q Okay. And you would have stood up in the living  
14:25:45 6 quarters?

14:25:46 7 A Yes, sir.

14:25:46 8 Q Were things getting a little tense now?

14:25:50 9 A I don't remember -- I don't remember feeling  
14:25:57 10 tense.

14:25:57 11 Q Not something you do every night, right? The  
14:26:00 12 life of a sheriff's deputy doesn't involve something like  
14:26:02 13 this every single night?

14:26:03 14 A We do -- we do building clearances, you know,  
14:26:07 15 often. But this is a different situation. Different.

14:26:10 16 Q Including clearances with a dead body. Okay.  
14:26:13 17 Got you.

14:26:14 18 Okay. So you come back and now you have got  
14:26:16 19 the five of you and you are going to go in a line through  
14:26:19 20 this door right here, correct?

14:26:20 21 A That's correct.

14:26:21 22 Q Okay. And this is sort of a -- it sounds like  
14:26:24 23 when you and I were talking before, this was really sort  
14:26:27 24 of an organized tactical maneuver. That you got in line.  
14:26:31 25 Somebody -- somebody had the point. Somebody was riding

14:26:34 1 drag on that, and you had a particular plan of how you do  
14:26:37 2 this. It wasn't just random let's go in the house?

14:26:39 3 A That's correct.

14:26:40 4 Q Okay. And what was the plan?

14:26:42 5 A The plan was that we were going to go in there  
14:26:45 6 through that door that you are pointing out and each  
14:26:48 7 person would start to clear a particular area while  
14:26:51 8 someone else kind of takes up a position where they're  
14:26:54 9 able to kind of keep an eye on any unsecured areas that we  
14:26:57 10 had not previously checked.

14:26:58 11 So we will go in there, and somebody would  
14:27:02 12 have gone down there and at least made a visual check of  
14:27:05 13 each one of these areas as we came to it, while whoever  
14:27:08 14 was in -- in point would kind of take a position and just  
14:27:11 15 kind of hold steady there and kind of keep an eye and make  
14:27:14 16 sure nobody else came into our range of vision or became a  
14:27:17 17 threat while we were clearing each of those rooms.

14:27:19 18 Q Look and scanning the room?

14:27:22 19 A Yes.

14:27:22 20 Q Scanning the room?

14:27:23 21 A Scanning room.

14:27:24 22 Q Because you have no idea what you're going to  
14:27:26 23 find?

14:27:26 24 A That's correct.

14:27:27 25 Q Were you looking in closets at that point?

14:27:31 1 A I did not look in any closets.

14:27:33 2 Q Okay. You are just looking for people that are  
14:27:35 3 outside. If they're hiding in a closet or up in the  
14:27:38 4 ceiling or something?

14:27:39 5 A I do not recall looking in any closets in that  
14:27:42 6 area. The only place I remember checking a closet and  
14:27:45 7 various places was down in the master bedroom.

14:27:48 8 Q So you turned -- so you went through. You  
14:27:50 9 cleared this area. Looked down in that living room.  
14:27:53 10 Looked around in the dining room here. Looked in the  
14:27:55 11 kitchen here, and then started down this hallway, right?  
14:27:59 12 And there's a door on the left into this bedroom here,  
14:28:02 13 right?

14:28:02 14 A Yes.

14:28:02 15 Q Do you remember who went in there?

14:28:04 16 A I do not.

14:28:04 17 Q Okay. And then there is a laundry room right  
14:28:09 18 here just a little bit further down the hall. The next  
14:28:11 19 door on the right is this laundry room; is that right?

14:28:13 20 A Yes, sir.

14:28:14 21 Q Did you go in there?

14:28:15 22 A No.

14:28:18 23 Q Okay. And then -- but somebody did?

14:28:21 24 A Somebody cleared it.

14:28:22 25 Q Presumably you wouldn't have proceeded down the

14:28:26 1 hall until these rooms were cleared first, right? You  
14:28:26 2 wouldn't want to go there and have somebody come in behind  
14:28:28 3 you, right?

14:28:29 4 **A** That's correct. What we would do is the person  
14:28:31 5 that is in front of us would continue as we cleared each  
14:28:34 6 room and come up behind them, then we could continue to  
14:28:37 7 progressively move forward down that hallway.

14:28:39 8 **Q** Staying close together?

14:28:40 9 **A** Yes.

14:28:41 10 **Q** Guns out?

14:28:42 11 **A** Yes.

14:28:42 12 **Q** Okay. And nobody has turned on any inside lights  
14:28:45 13 at this point?

14:28:45 14 **A** No.

14:28:46 15 **Q** So the only light -- or did everybody have a  
14:28:48 16 flashlight?

14:28:49 17 **A** Everybody had their flashlight.

14:28:50 18 **Q** So that's -- that's the only light is this --  
14:28:53 19 this. How dark is it inside here? Particularly when you  
14:28:55 20 get back in this hallway, how dark is it at that point?  
14:28:58 21 Could you see without a flashlight? If everybody turned  
14:29:00 22 their flashlight off, could you see?

14:29:01 23 **A** You know, I don't know because we all had our  
14:29:05 24 flashlights on.

14:29:07 25 **Q** Okay. Make sense.

14:29:08 1 But -- so you come down and there were no  
14:29:11 2 lights on any of these rooms, right?

14:29:13 3 A No, sir.

14:29:14 4 Q Okay. And then this is a bathroom, right? I  
14:29:21 5 think it says guest bath.

14:29:22 6 A I don't remember going in that room, so I don't  
14:29:23 7 recall what that room is.

14:29:24 8 Q Okay. All right. And you come down here and  
14:29:26 9 then there are doors across from each other. There is a  
14:29:28 10 door here that goes into the master bedroom and there is a  
14:29:32 11 door here that goes into this room here where the body  
14:29:35 12 was, correct?

14:29:35 13 A Yes, sir.

14:29:36 14 Q Okay. And who -- who among you went into the  
14:29:39 15 master bedroom?

14:29:40 16 A Sergeant Acton and I. We went in and cleared  
14:29:42 17 that entire area.

14:29:44 18 Q And were you just looking for people again at  
14:29:46 19 this point?

14:29:47 20 A Yes, sir.

14:29:48 21 Q Okay. You weren't doing any kind of a search at  
14:29:50 22 this point?

14:29:50 23 A No, sir.

14:29:51 24 Q And the only lights were flashlights, correct?

14:29:52 25 A Yes, sir.

14:29:53 1 Q So you looked in here. You looked in the closet.  
14:29:54 2 You looked in the bathroom. Didn't find anything?

14:29:58 3 A No, sir. We did not find anybody in the house.

14:30:01 4 Q And then you go back and the other three, are  
14:30:03 5 they waiting in the hallway here until you clear this  
14:30:05 6 room?

14:30:05 7 A I don't remember where everybody was at that  
14:30:09 8 particular time. When we came out of there, I know we  
14:30:12 9 kind of regrouped there in the hallway at some point and  
14:30:16 10 then the only room that was not cleared in the house was  
14:30:19 11 the room where we found the victim.

14:30:21 12 Q Okay. And at some point then --

14:30:23 13 A And then Deputy Joy went into room.

14:30:25 14 Q And the way he went in was through this door  
14:30:27 15 here. Ducked under the ladder. Stepped over the body and  
14:30:30 16 we saw that one picture of poor Ms. Kennedy and you could  
14:30:34 17 see Scott Joy's legs, the lower part of his body looking  
14:30:39 18 back towards the door, right?

14:30:41 19 A Yes, sir.

14:30:42 20 Q He was the first one in the room?

14:30:43 21 A Yes, sir.

14:30:44 22 Q And then Sergeant Acton went in and knelt down by  
14:30:46 23 the body. Felt to see if she was breathing or looked to  
14:30:49 24 see if she was breathing and felt her pulse, right?

14:30:51 25 A Yes. She only took about a step or two into

14:30:54 1 that -- into that room and checked -- checked the victim.

14:31:00 2 Q Okay. Now, at this point do you know if any --  
14:31:04 3 either of the sergeants have called for additional backup  
14:31:06 4 or done anything or are you just waiting until you clear  
14:31:08 5 everything and then take a deep breath and figure out what  
14:31:11 6 you are going to do?

14:31:11 7 A Our main -- our main focus at this point was to  
14:31:14 8 make sure that we were all safe and that the house was  
14:31:17 9 clear of -- and free of threats before we start making any  
14:31:21 10 additional calls.

14:31:22 11 Q Okay. When that was accomplished, which would  
14:31:24 12 have been, I think, after Scott Joy gets in the room and  
14:31:28 13 she -- Sergeant Acton concludes that this person is, in  
14:31:31 14 fact, deceased. That's a point at which the next steps  
14:31:34 15 would be planned, right?

14:31:35 16 A Yes, sir.

14:31:36 17 Q Okay. And who was in charge of that?

14:31:38 18 A I don't recall who started making phone calls  
14:31:46 19 towards -- towards what.

14:31:49 20 After we cleared the room, Deputy Schilling  
14:31:52 21 and I were told to go get our cameras and start taking  
14:31:55 22 some photos of the scene.

14:31:56 23 Q Who told you that?

14:31:57 24 A I believe Sergeant Acton told me to do that.

14:32:00 25 Q Okay. And that's -- so you came in, and if I



14:32:03 1 understand this -- you understood that at some point  
14:32:06 2 detectives were going to be called in from criminal  
14:32:09 3 investigations? I mean you knew that, right?

14:32:11 4 **A** I didn't know exactly what we all had at that  
14:32:15 5 point. I -- I didn't know really what the next step was  
14:32:21 6 going to be as far as -- we were still trying to determine  
14:32:24 7 what had happened at the scene. We wanted to make sure  
14:32:26 8 before we started to alert everybody and start pulling  
14:32:29 9 everybody out.

14:32:29 10 **Q** Was there discussion among you as to what this  
14:32:32 11 was, meaning an accident, a homicide, and I don't know  
14:32:38 12 yet?

14:32:38 13 **A** It was just -- it was just -- all we knew at the  
14:32:41 14 time was that we had a deceased -- deceased female under  
14:32:45 15 suspicious conditions right after we cleared the -- right  
14:32:47 16 after we cleared the house.

14:32:48 17 **Q** So you went out and got your camera and who else  
14:32:50 18 did?

14:32:50 19 **A** I believe Deputy Schilling went and got his  
14:32:52 20 camera as well.

14:32:53 21 **Q** Okay. And you were going to come back and  
14:32:54 22 including going in the room where the body was and taking  
14:32:57 23 pictures?

14:32:57 24 **A** I'm sorry?

14:32:58 25 **Q** You went into the room where the body was and

14:32:59 1 took pictures?

14:33:00 2 **A** I did not initially go in there, because Deputy  
14:33:04 3 Joy was already in the room after he had cleared it.

14:33:06 4 **Q** And somebody tossed him a camera?

14:33:08 5 **A** Yeah. I handed the camera to him.

14:33:10 6 **Q** He took pictures. Is that standard that before  
14:33:14 7 the detectives or the criminalists from the lab or anybody  
14:33:18 8 else would get there, that the on-scene deputies would go  
14:33:20 9 in and start taking pictures?

14:33:21 10 **A** We wanted to document everything just as we found  
14:33:25 11 it.

14:33:26 12 **Q** Okay. I have asked you about the doors and I  
14:33:34 13 have asked you about the lights. What about the condition  
14:33:36 14 of all the windows we can see on this house? Did you make  
14:33:39 15 any sort of systematic inspection of windows to see  
14:33:43 16 whether the windows were opened, locked or shut?

14:33:46 17 **A** No, sir, I did not.

14:33:47 18 **Q** Okay. Do you remember now, nearly two years on,  
14:33:50 19 the condition of the windows, whether they were open,  
14:33:53 20 shut, locked, unlocked?

14:33:54 21 **A** No, sir, I do not.

14:33:56 22 **Q** Did it feel like inside the house there was any  
14:33:58 23 kind of a cooling system? Was the house cooler than the  
14:34:01 24 outside?

14:34:02 25 **A** I don't recall if -- if it was cooler than the

14:34:04 1 outside or what have you. I remember I wasn't  
14:34:07 2 uncomfortable, but I don't remember -- I don't remember  
14:34:09 3 anything if it was cooler inside than outside.

14:34:12 4 Q Okay. We've seen pictures already in the house  
14:34:14 5 that show evaporative cooling units up on the roof. Did  
14:34:18 6 you see those that day?

14:34:19 7 A Yes. I saw pictures. I did not see those at the  
14:34:22 8 time.

14:34:22 9 Q Do you think there were windows that opened that  
14:34:25 10 can be -- that could be opened or all fixed panes of  
14:34:29 11 glass, or do you not remember?

14:34:30 12 A I don't remember.

14:34:31 13 Q Okay. And none of the doors were cracked open.  
14:34:34 14 They were just unlocked, the ones that were unlocked?

14:34:36 15 A Oh, that's correct.

14:34:38 16 Q Okay. So when you finished taking these  
14:34:41 17 pictures, you are then asked to finish this trip around  
14:34:48 18 exterior of the house to take note of the condition of the  
14:34:51 19 doors, right?

14:34:53 20 A To the exterior?

14:34:54 21 Q To go around the outside again and finish this  
14:34:57 22 perimeter trip checking on all the doors?

14:35:00 23 A We went and started beginning to check the out  
14:35:02 24 buildings that we could see.

14:35:03 25 Q That was next. Well, let me ask you this.

14:35:07 1           **A**     I know it was dark. I can't remember the  
14:35:09 2           chronological order.

14:35:11 3           **Q**     Sure. Okay. But at some point -- let's just  
14:35:11 4           leave it at that. But at some point --

14:35:12 5           **A**     Yes, sir.

14:35:13 6           **Q**     -- at some point -- at some point you were asked  
14:35:14 7           by whom to check the doors?

14:35:17 8           **A**     Sergeant Acton asked -- asked myself and Deputy  
14:35:21 9           Schilling to start checking doors.

14:35:22 10          **Q**     Who was a relatively new deputy?

14:35:23 11          **A**     Yes.

14:35:24 12          **Q**     Still in training?

14:35:24 13          **A**     He was on FTO. Field training, yes.

14:35:27 14          **Q**     And so did you go back and start at the front  
14:35:29 15          door?

14:35:29 16          **A**     I started -- that was the first one on my notes  
14:35:33 17          and we went -- we went door to door inside the house there  
14:35:36 18          and began to check whether or not the doors were locked or  
14:35:40 19          unlocked. Again by not manipulating the doors, by  
14:35:43 20          checking to see if the dead bolts had been --

14:35:46 21          **Q**     Did you do that inside or outside?

14:35:48 22          **A**     We did that from the inside. I remember being in  
14:35:53 23          the bedroom, just that bedroom right there. I remember  
14:35:57 24          being in that bedroom and taking the notes down.

14:35:59 25          **Q**     Okay. That's when you started writing these

14:36:01 1 notes?

14:36:02 2       **A**     I don't remember if that was -- because, like I  
14:36:04 3 said, the first one on my notes was the front door. So I  
14:36:08 4 remember being in the inside and checking -- checking  
14:36:10 5 those doors with Deputy Schilling.

14:36:13 6       **Q**     Okay. Did you go back and recheck the front door  
14:36:15 7 and the door that you all went through or do you just  
14:36:18 8 write that down because you remembered the condition they  
14:36:19 9 were in?

14:36:20 10       **A**     Yeah. That one was unlocked, so I did not check  
14:36:23 11 it again.

14:36:23 12       **Q**     And you remember the front door was locked?  
14:36:26 13 Didn't have to check that again, right?

14:36:27 14       **A**     I made note that it was locked.

14:36:31 15       **Q**     Okay. Do you remember -- do you remember whether  
14:36:34 16 that was because you tried it when you first came up to  
14:36:36 17 the house or because you went back later and looked at the  
14:36:40 18 dead bolt to see if it was thrown?

14:36:41 19       **A**     I don't recall.

14:36:43 20       **Q**     Did the front door have a dead bolt?

14:36:45 21       **A**     I don't recall.

14:36:48 22       **Q**     Were any pictures taken of the door locking  
14:36:51 23 mechanisms on any of these doors that you remember?

14:36:54 24       **A**     I did not take any pictures of those, no.

14:36:56 25       **Q**     Okay. But you have a memory of being in this

14:36:58 1 bedroom here looking at this door to the outside; is that  
14:37:02 2 right?

14:37:02 3       **A**     Checking that door, yes.

14:37:03 4       **Q**     So we can see here in the three bedrooms of this  
14:37:05 5 house, this bedroom, this bedroom and this bedroom, all  
14:37:07 6 three of them have a door to the outside, correct?

14:37:10 7       **A**     Yes, sir.

14:37:11 8       **Q**     Okay. And this door into the room where the body  
14:37:17 9 was, your notes indicate that was locked, correct?

14:37:20 10       **A**     Yes, sir. I asked Scott Joy, Deputy Joy who was  
14:37:23 11 already in the room at the time if that door was locked or  
14:37:25 12 unlocked.

14:37:26 13       **Q**     Because you think he went over and tried it?

14:37:29 14       **A**     He checked it. Visually checked it.

14:37:33 15       **Q**     At your request you are standing in the doorway  
14:37:35 16 talking to him and you say would you check that door?

14:37:37 17       **A**     Something to that effect.

14:37:39 18       **Q**     When you looked over. And when you say checked  
14:37:40 19 the lock, are you looking down to see if you can see the  
14:37:42 20 dead bolt going into the doorjamb?

14:37:44 21       **A**     Yes, sir.

14:37:44 22       **Q**     Okay. Do you think all of these -- well, there  
14:37:51 23 are lots of different combination of locks and dead bolts,  
14:37:55 24 right?

14:37:56 25       **A**     Yes, sir.

14:37:56 1 Q Did these doors, these exterior doors, these  
14:37:58 2 three to these bedrooms have a knob or a lever and a dead  
14:38:03 3 bolt?

14:38:04 4 A Again I don't recall. We were checking for the  
14:38:07 5 dead bolts and I specifically remember that's how we were  
14:38:10 6 able to determine whether they were locked or unlocked.  
14:38:12 7 So it stands to reason there was a dead bolt in those  
14:38:16 8 doors.

14:38:16 9 Q What if there was a dead bolt that wasn't thrown,  
14:38:20 10 but the door handle had a thumb latch that would allow you  
14:38:24 11 to lock it or lock with a key, would you be able to see  
14:38:27 12 that visually?

14:38:29 13 A I don't think you could determine whether it was  
14:38:31 14 locked or unlocked on just something like this.

14:38:33 15 Q So -- so if I understand what you are saying then  
14:38:35 16 is for the doors that you say were locked, on each of  
14:38:39 17 those doors that you said were locked, the front door, the  
14:38:41 18 door to the master bedroom, this door to the room where  
14:38:45 19 the body was, this door to the other bedroom, in each of  
14:38:48 20 those you could specifically see a dead bolt that was  
14:38:52 21 thrown by looking at it? Each one of those?

14:38:54 22 A That is what I remember.

14:38:56 23 Q Okay. Now, you come up to this door here on the  
14:38:58 24 north side that we've seen a picture of that is in a  
14:39:01 25 little alcove here. It's not flush with the exterior

14:39:04 1 wall. It sits back a little bit, correct?

14:39:05 2 A Yes, sir.

14:39:06 3 Q And that door, we have seen pictures, comes out  
14:39:08 4 and goes down these steps here to the garage. You can't  
14:39:11 5 get into the garage through the house. You have to go  
14:39:14 6 outside down the steps and through another door, correct?

14:39:17 7 A Yes, sir.

14:39:17 8 Q All right. And this door was unlocked, correct?

14:39:20 9 A Yes, sir.

14:39:21 10 Q Okay. How about the door to the garage?

14:39:24 11 A It was unlocked as well.

14:39:25 12 Q Okay. And that would be -- that then would be  
14:39:28 13 all of the exterior doors, correct? We have now covered  
14:39:31 14 them all?

14:39:32 15 A All connected to the main house, yes.

14:39:34 16 Q Okay. And then the door to the guesthouse over  
14:39:37 17 here was also unlocked, correct?

14:39:39 18 A Yes, sir.

14:39:39 19 Q And you can't tell me anything about the  
14:39:42 20 condition of these windows -- the window here into this  
14:39:47 21 room, correct?

14:39:48 22 A No, sir. I don't remember.

14:39:49 23 Q Okay. All right. Now, you said that -- these  
14:39:54 24 are the -- you call them tubs, plastic tubs --

14:39:57 25 A Containers.



14:39:58 1 Q -- containers at the end here and they had blood.  
14:40:00 2 We saw pictures of it on this surface here coming from the  
14:40:03 3 room there, and there was blood on the floor right at the  
14:40:06 4 entrance here, correct?  
14:40:07 5 A Yes, sir.  
14:40:07 6 Q Okay. And you said you found a blood drop or  
14:40:11 7 what you thought was a blood drop across the hall on a  
14:40:14 8 light switch right in here, correct?  
14:40:16 9 A Yes, sir.  
14:40:16 10 Q That was a light switch that, among other things,  
14:40:20 11 threw a light into this room, the master bedroom, correct?  
14:40:22 12 A I believe that was a hallway light switch.  
14:40:25 13 Q Okay. Was it a single or double pole? Do you  
14:40:29 14 remember?  
14:40:30 15 A I took picture of it. I don't recall without  
14:40:32 16 looking at the pictures.  
14:40:34 17 Q Who did you give the pictures to?  
14:40:36 18 A I placed them into evidence.  
14:40:37 19 Q Did you tell any of the other deputies or  
14:40:40 20 sergeants or anyone else about seeing this droplet on this  
14:40:44 21 light switch?  
14:40:44 22 A Yes. I told Sergeant Acton.  
14:40:47 23 Q Did she come over and look at it?  
14:40:48 24 A She was standing right there, yes.  
14:40:50 25 Q Okay. And you said you didn't see anything that

14:40:54 1 looked like blood or bloody footprints going in or out of  
14:40:58 2 this hallway, correct?

14:40:59 3 A No, sir. I did not see anything like that.

14:41:00 4 Q Did you personally see any blood outside the  
14:41:03 5 house anywhere?

14:41:03 6 A Ah, initially when we walked around the outside  
14:41:07 7 of the house, ah, I believe it was pointed -- I believe  
14:41:11 8 Deputy Schilling pointed out some blood and I can't  
14:41:16 9 remember if it was in front of the door where the victim  
14:41:20 10 was found or if it was in front of the other door facing  
14:41:22 11 the north. I don't remember.

14:41:24 12 Q But what did it look like?

14:41:29 13 A I don't remember.

14:41:30 14 Q Was it a drop? Was it a smear?

14:41:34 15 A I don't remember.

14:41:35 16 Q Did you take a picture of it?

14:41:37 17 A I did not, no.

14:41:39 18 Q Okay. Thank you.

14:41:40 19 I think we can turn the Elmo off. If  
14:41:44 20 somebody can help me turn the Elmo off.

14:41:47 21 If you could turn the Elmo back on. I'm  
14:42:02 22 sorry.

14:42:03 23 THE BAILIFF: I live only to serve, Mr. Sears.

14:42:07 24 THE COURT: Short break.

14:42:08 25 MR. SEARS: Check's in the mail.

14:42:11 1 Q Okay. Okay. Let me, now we've got the Elmo  
14:42:27 2 fired up here, let me show you -- this is Exhibit 816 -- I  
14:42:40 3 think we have a stipulation. This is 816. There may be a  
14:42:44 4 different image number and I can't -- 816 I think is a CD  
14:42:49 5 of images.

14:42:51 6 A VOICE: .006.

14:42:53 7 MR. SEARS: P.006, Counsel. But I think we can  
14:42:57 8 stipulate this photograph into evidence.

14:42:59 9 MR. BUTNER: Maybe we should mark it separately.

14:43:03 10 THE COURT: Is that a document?

14:43:04 11 MR. SEARS: The problem is this is a CD that the  
14:43:06 12 State submitted that has many images on this. This is  
14:43:09 13 simply one from this CD.

14:43:10 14 MR. BUTNER: Right.

14:43:11 15 MR. SEARS: So I can't reach into the drawer and  
14:43:13 16 pull it out.

14:43:15 17 THE COURT: Ah --

14:43:15 18 MR. SEARS: We could give it a new number.

14:43:17 19 THE COURT: Why don't we give it a new number.

14:43:19 20 MR. SEARS: I hate to do that.

14:43:31 21 THE COURT: 2318? Sometimes the computer is  
14:43:42 22 slower.

14:43:44 23 MR. SEARS: 2314.

14:43:45 24 THE COURT: Thank you.

14:43:45 25 MR. SEARS: Your Honor, I think we have a

14:43:46 1 stipulation that 2314 may be admitted.

14:43:48 2 MR. BUTNER: No objection.

14:43:49 3 THE COURT: 2314 is admitted.

14:43:52 4 MR. SEARS:

14:43:52 5 Q Okay. Deputy, let me show you Exhibit 2314, hot  
14:43:56 6 off the press here, and see if we can take a look at that.  
14:44:02 7 Do you recognize that as a shot looking down the hallway  
14:44:07 8 from the living room kitchen area down the hallway towards  
14:44:12 9 the end of the hall? On the left would be the door to  
14:44:16 10 where the body was. On the right where you can see part  
14:44:19 11 of the deputy is the door where the master bedroom and  
14:44:22 12 there was the plastic tubs, right?

14:44:24 13 A Yes, sir.

14:44:25 14 Q Okay. And what's that at the foot of that deputy  
14:44:29 15 there, if you can tell from that picture? What does that  
14:44:31 16 appear to be?

14:44:32 17 A That is a dog.

14:44:34 18 Q Okay. And is that one of the dogs that was at  
14:44:36 19 the house or is that a police dog?

14:44:38 20 A I would say that is probably one of the dogs  
14:44:42 21 there. I don't recall what the dogs exactly looked like  
14:44:45 22 other than they were small.

14:44:45 23 Q Okay. That's not a good idea, is it, having a  
14:44:49 24 dog walking around a crime scene?

14:44:51 25 A I was unaware it was there.

14:44:54 1 Q Okay. Apparently they weren't either.  
14:44:58 2 Do you recognize anybody from that  
14:45:00 3 photograph?

14:45:00 4 A The dog standing behind me.

14:45:02 5 Q That is you?

14:45:03 6 A Yes, sir.

14:45:03 7 Q Okay. Well, that would explain why you didn't  
14:45:07 8 know it was there, correct?

14:45:09 9 A That's correct.

14:45:09 10 Q Okay. And have you got -- does it look like  
14:45:12 11 you're taking a picture?

14:45:13 12 A Yes, sir.

14:45:13 13 Q Okay. Now, let me just show you on Exhibit 631.  
14:45:24 14 There is a second page here, and this might help us all  
14:45:27 15 understand a little bit of the orientation here.

14:45:32 16 This is Bridle Path and we can see that turn  
14:45:38 17 in the road. It now shows up here. Let me back out a  
14:45:41 18 little. If you could back up just a little bit, I want to  
14:45:44 19 show the road up here.

14:45:45 20 All right. That's good.

14:45:47 21 Okay. So we see here is the main house we  
14:45:49 22 have looked at here, the garage, the living room,  
14:45:52 23 etcetera, and this is -- this rectangle here is the  
14:45:55 24 guesthouse-garage, correct?

14:45:55 25 A Yes, sir.

14:45:56 1 Q And you can see the pathway and that block wall,  
14:45:59 2 and the arch sits about here, right?

14:46:02 3 A Yes, sir.

14:46:03 4 Q Okay. And this is Bridle Path and here's that 90  
14:46:06 5 degree bend to the west that we were talking about; is  
14:46:10 6 that right?

14:46:10 7 A Yes, sir.

14:46:10 8 Q And your recollection is when you were out here  
14:46:13 9 in this area with Sergeant Acton, waiting for the rest of  
14:46:17 10 the team to arrive, that this white pickup truck came down  
14:46:21 11 in this direction and in?

14:46:21 12 A Yes, sir. That was my recollection.

14:46:23 13 Q Okay. And -- thanks.

14:46:25 14 Now, really can turn this off now, Phil. I  
14:46:28 15 promise.

14:46:41 16 Okay. Now, what we have here is something  
14:46:43 17 altogether different, Deputy. This is an aerial photo and  
14:46:47 18 let me orient you. This --

14:46:49 19 THE COURT: Is this a particular number, exhibit  
14:46:51 20 number?

14:46:54 21 MR. SEARS: It is a portion of Exhibit 2215.

14:46:59 22 THE COURT: Thank you.

14:47:00 23 MR. SEARS: I don't think 2215 has been admitted.

14:47:03 24 MR. BUTNER: I don't think so either.

14:47:04 25 MR. SEARS: This was disclosed to the State and

14:47:05 1 we used this in my opening statement and this contains  
14:47:09 2 aerial photos.

14:47:10 3 THE COURT: Is there any objection to showing  
14:47:12 4 2215?

14:47:14 5 MR. BUTNER: Sort of a little late right now, but  
14:47:17 6 I know I saw part of that and -- but I don't know  
14:47:21 7 everything that is on that, so I don't have a problem  
14:47:24 8 stipulating that is what I just saw.

14:47:26 9 MR. SEARS: You have this. You have had this for  
14:47:28 10 sometime.

14:47:28 11 MR. BUTNER: I know that, John, but I don't  
14:47:31 12 remember everything that's on that. That one particular  
14:47:34 13 picture, no objection, Judge.

14:47:36 14 THE COURT: All right. You may display 2215, the  
14:47:41 15 portion that was up there.

14:47:43 16 MR. SEARS: Thank you.

14:47:44 17 THE COURT: Progress in the examination.

14:47:45 18 MR. SEARS: Thank you, your Honor. At this  
14:47:46 19 point, I would just use it for demonstrative purposes.

14:47:48 20 THE COURT: That's fine.

14:47:49 21 MR. SEARS:

14:47:49 22 Q Okay. So let me orient you, Deputy. Down here  
14:47:52 23 is the -- this area in here is the Carol Kennedy  
14:47:56 24 residence. Here's the main house. Here's the guesthouse.  
14:47:59 25 Here is Bridle Path and here's that 90 degree turn and

14:48:03 1 then up here is Glenshandra and it comes down and here is  
14:48:08 2 the gate area that you have shown us in the pictures you  
14:48:12 3 took and then there is a fence line that runs right  
14:48:14 4 down -- straight down here. Okay.

14:48:16 5 Are you oriented with me?

14:48:18 6 A Yes, sir.

14:48:18 7 Q Okay. And this area over here is just a portion  
14:48:21 8 of the ranch land, an open area that we talked about so  
14:48:27 9 much. Okay. And you can see that it's crisscrossed with  
14:48:30 10 trails, right?

14:48:30 11 A Yes, sir.

14:48:31 12 Q A lot of different trails here. And you can  
14:48:33 13 see -- and, in fact, in one of your photographs, you can  
14:48:34 14 see a little piece of this trail and this trail here.  
14:48:38 15 That the photographs were taken from here looking through  
14:48:40 16 the gate, correct?

14:48:41 17 A Yes, sir.

14:48:42 18 Q Okay. And the bicycle tracks you saw were  
14:48:44 19 generally up in this area here, correct?

14:48:46 20 A Yes. Right in that area right where the pointer  
14:48:50 21 is.

14:48:50 22 Q All right. And the area -- the distance from  
14:48:55 23 that location at the end of Glenshandra back down to the  
14:48:59 24 crime scene, that was the one you thought was a few  
14:49:01 25 hundred yards more or less?



14:49:02 1 A Three, 400 yards possibly.

14:49:04 2 Q And you can see in this picture it isn't a great  
14:49:06 3 distance, right?

14:49:07 4 A Yes, sir.

14:49:07 5 Q But if you wanted to get in your car and drive,  
14:49:09 6 there is no way to drive between the Glenshandra trailhead  
14:49:13 7 and Bridle Path until you get out on the ranch land,  
14:49:17 8 correct?

14:49:17 9 A Yes.

14:49:19 10 Q And this gate up here isn't big enough to get a  
14:49:22 11 passenger vehicle through, is it?

14:49:23 12 A No, sir.

14:49:24 13 Q Okay. So you would have to drive out on these  
14:49:26 14 roads here all the way out to Williamson Valley and  
14:49:30 15 eventually come back down on Glenshandra to get to this --  
14:49:33 16 and that is, in fact, what you did, right?

14:49:34 17 A Yes, sir. We went -- we went actually south on  
14:49:37 18 Bridle Path and went back out this way.

14:49:39 19 Q This way?

14:49:39 20 A Yes, sir.

14:49:39 21 Q Maybe -- okay. All right. Okay. And if I told  
14:49:45 22 you that the distance from this trailhead on Glenshandra  
14:49:48 23 all the way back out to Williamson Valley Road is also  
14:49:51 24 about a mile, does that seem about right? From where you  
14:49:54 25 turn off Williamson Valley on to Glenshandra?

14:49:57 1 A That's fine. Yes.

14:49:58 2 Q All right. Now, so that night you were at the  
14:50:06 3 scene here on Bridle Path, correct? You were there for  
14:50:10 4 some considerable period of time, right?

14:50:11 5 A Yes, sir.

14:50:12 6 Q And then for a period of time, you are up here at  
14:50:15 7 Glenshandra and what time do you think it is, if you were  
14:50:18 8 keeping track, when you were up here on Glenshandra where  
14:50:20 9 you and Sergeant Acton make your discovery and take your  
14:50:23 10 pictures? What time do you think that was?

14:50:25 11 A I don't recall.

14:50:25 12 Q Okay. Let me show you a closer up shot.

14:50:34 13 MR. BUTNER: Wait a minute. Here's where I do  
14:50:35 14 object, because we just tried to look at this and couldn't  
14:50:38 15 get it to open.

14:50:39 16 MR. SEARS: Oldest trick in the book.

14:50:43 17 THE COURT: Do you want to take a break right  
14:50:45 18 now?

14:50:45 19 MR. SEARS: We can. It's a picture I used during  
14:50:47 20 my opening, Mr. Butner.

14:50:48 21 THE COURT: Let's take the afternoon recess at  
14:50:50 22 this point since we're --

14:50:51 23 MR. SEARS: Thank you.

14:50:52 24 THE COURT: -- trying to get everything situated.

14:50:54 25 Remember the admonition please.

14:50:56 1 You can step down in the meantime.

14:51:01 2 (Recess.)

15:13:26 3 THE COURT: Record reflects the presence of the  
15:13:29 4 jury, the defendant, and his counsel and the prosecution  
15:13:32 5 team.

15:13:32 6 You may proceed, Mr. Sears.

15:13:38 7 MR. SEARS: Thank you.

15:13:39 8 Deputy, just a little bit more and we will  
15:13:41 9 be done.

15:13:42 10 The Elmo is thinking, your Honor.

15:14:21 11 MR. BUTNER: No objection to this next photo  
15:14:24 12 coming in, Judge.

15:14:25 13 MR. SEARS: Thank you.

15:14:26 14 THE COURT: All right. Thank you. We are still  
15:14:31 15 showing portions of 2215?

15:14:33 16 MR. SEARS: Yes, your Honor.

15:14:34 17 THE COURT: Thank you.

15:14:36 18 MR. SEARS: I think we are going to work  
15:14:37 19 overnight with the State on trying to find a way to make  
15:14:40 20 it even clearer.

15:14:42 21 Q Okay. Deputy, this is a close-up from that same  
15:14:46 22 much larger aerial photo of the area right behind Bridle  
15:14:55 23 Path, and just to orient you, this is the main house here.  
15:15:00 24 This is the guesthouse here. This is the little courtyard  
15:15:06 25 area. This is the garage, and this is the hot tub here.

15:15:11 1 Down here is the horse barn, right?

15:15:15 2 A Yes, sir.

15:15:15 3 Q Okay. And this is the walled garden area that  
15:15:19 4 you saw?

15:15:20 5 A Yes, sir.

15:15:20 6 Q If I told you that up here in -- that basically  
15:15:24 7 the Carol Kennedy property is this triangular shaped piece  
15:15:28 8 here, does that seem about right? Kind of generally in  
15:15:33 9 this area?

15:15:33 10 A Yes, sir.

15:15:33 11 Q Okay. And then up at this corner, which would be  
15:15:36 12 the northeast corner of the property, there's actually a  
15:15:40 13 gate through the fence that goes from private property  
15:15:42 14 onto the ranch land. Did you ever see that gate?

15:15:45 15 A No, sir.

15:15:46 16 Q Okay. And if I told you that down here near the  
15:15:52 17 walled garden, that you can see this little path that goes  
15:15:54 18 across here in the trees, and there's sort of a step over  
15:15:57 19 gate in the fence line. Some horizontal wooden slats  
15:16:00 20 where you could climb over the barb wire fence. Did you  
15:16:03 21 see that?

15:16:03 22 A No, sir.

15:16:04 23 Q Okay. Thank you.

15:16:06 24 We are back at the Elmo here if it's awake.  
15:16:14 25 Do you need to take the lens cap off. Always a good

15:16:19 1 start.

15:16:19 2 Okay. This is the picture that we have  
15:16:22 3 seen. This is Exhibit 2311 in evidence here. I think  
15:16:27 4 that's pretty good right in there, Richard.

15:16:28 5 Okay. And just to orient us, this is taken  
15:16:31 6 from the end of Glenshandra Road looking at the gate there  
15:16:35 7 and across into the open land. That is where we are?

15:16:39 8 A Yes, sir.

15:16:39 9 Q Okay. And we looked on the aerial photo where  
15:16:42 10 Glenshandra was. It's north of the Bridle Path crime  
15:16:45 11 scene, correct?

15:16:46 12 A Yes, sir.

15:16:46 13 Q All right. And this material down in here, this  
15:16:50 14 is sort of a gravel dirt mix, this gray area here, right?

15:16:54 15 A Yes, sir.

15:16:54 16 Q But when you get nearer to the gate, this browner  
15:16:57 17 part in here, is more dirt and less rock, correct, than  
15:17:02 18 this gravel area?

15:17:02 19 A Yes, sir.

15:17:03 20 Q Okay. And if I understand what you are saying is  
15:17:06 21 down here -- almost blind Sandi -- sorry -- down here is  
15:17:13 22 the pavement. You might actually even be standing on the  
15:17:17 23 pavement when you took this picture, right?

15:17:18 24 A I did not take this photo.

15:17:20 25 Q Do you know who did?

15:17:21 1           **A**     No, sir.

15:17:21 2           **Q**     You know this area well enough to know though  
15:17:24 3 whoever took this picture is standing at or very near the  
15:17:27 4 end of the pavement on Glenshandra, right?

15:17:30 5           **A**     Yes, sir.

15:17:30 6           **Q**     Okay. And there is a turnout here. We looked at  
15:17:32 7 another picture, but there is a turnout here and a couple  
15:17:35 8 of little poles with the reflectors on it that are off  
15:17:39 9 here to the right, correct?

15:17:40 10          **A**     Yes, sir.

15:17:40 11          **Q**     Okay. And apparently that night you walked up  
15:17:46 12 towards this area and got to this gate and found that it  
15:17:49 13 was locked; is that right?

15:17:50 14          **A**     Yes, sir.

15:17:51 15          **Q**     Okay. And I don't know if it does any good to  
15:17:54 16 zoom in. See if -- see where the lock is. Yeah. There  
15:18:00 17 you go. That's the lock right there, isn't it?

15:18:02 18          **A**     I -- I can't tell.

15:18:05 19          **Q**     Okay. What kind of a lock was it? Do you  
15:18:08 20 remember? Was it a combination lock?

15:18:10 21          **A**     I believe it was a combination lock.

15:18:11 22          **Q**     Combination lock. And it was locked; isn't that  
15:18:13 23 right?

15:18:13 24          **A**     Yes, sir. It was locked.

15:18:14 25          **Q**     Do you know what this paper is?

15:18:16 1           **A**     It was a notice to let people know that it was a  
15:18:22 2 trailhead back there and if you wanted to walk or if you  
15:18:25 3 wanted to use this trail, you had to ask for permission by  
15:18:28 4 calling the number that was on that sign.

15:18:30 5           **Q**     Owners of the ranch.

15:18:32 6                     Okay. And you don't know whether  
15:18:36 7 Mr. Democker had the combination to this lock, do you?

15:18:39 8           **A**     I don't know who has the combination to that  
15:18:41 9 lock.

15:18:41 10          **Q**     All right. When you got there, you climbed over  
15:18:43 11 the fence and were looking around the other side; is that  
15:18:45 12 right?

15:18:45 13          **A**     Yes, sir.

15:18:46 14          **Q**     Now, it's a little hard to see on this. It's  
15:18:48 15 much easier in the photograph, but when you look at the  
15:18:51 16 photograph, you can actually sort of see the bicycle  
15:18:54 17 track. That looks like a little piece of it right there,  
15:18:56 18 doesn't it? Right to the left of the red light?

15:19:01 19          **A**     I -- I can't tell in this photo.

15:19:03 20          **Q**     Do you want to step out a little and maybe when  
15:19:05 21 you're too close to it sometimes -- right in there.

15:19:16 22                     THE COURT: Show the original.

15:19:18 23                     THE WITNESS: I can't tell in this. I can't  
15:19:21 24 tell.

15:19:21 25                     MR. SEARS:

15:19:22 1 Q Let me just do this. Let me just show you 2311,  
15:19:26 2 as the judge suggested to see if you can see the  
15:19:30 3 bicycle --

15:19:30 4 A Yes.

15:19:31 5 Q -- tires. You can see that they are there and  
15:19:32 6 it's where -- generally where I was pointing on the larger  
15:19:34 7 photo?

15:19:35 8 A Yes, sir.

15:19:35 9 Q Okay. However, neither on that photo or on the  
15:19:41 10 enlargement, I am not seeing that bicycle track go through  
15:19:45 11 the gate and make a track on this side on the pavement  
15:19:48 12 side of that gate. Did you see a bicycle track anywhere  
15:19:53 13 on this side of this locked gate?

15:19:56 14 A I did not.

15:19:58 15 Q Okay. And you saw some shoe print impressions,  
15:20:03 16 you said, that were on the open land side of the gate,  
15:20:07 17 correct? Kind of in the general area of the bicycle tire  
15:20:10 18 impressions?

15:20:10 19 A Yes. There was shoe prints in that area, yes.

15:20:13 20 Q You didn't see any similar shoe prints though on  
15:20:15 21 this side of the gate, did you?

15:20:17 22 A I was not checking that area.

15:20:19 23 Q Okay. So if there were -- if they were there,  
15:20:22 24 you didn't see them?

15:20:23 25 A If they were there, I did not see them.



15:20:24 1 Q Okay. Because you didn't have any idea of how  
15:20:28 2 this all fit together, if at all, with this investigation,  
15:20:31 3 this being these impressions, right?

15:20:34 4 A That's correct.

15:20:35 5 Q Okay. And you left the investigation and left  
15:20:40 6 the case before there was any further discussion about  
15:20:43 7 impressions of any kind on this side of the gate, this  
15:20:46 8 side being the pavement side, right? You were off the  
15:20:48 9 case and done with your work on this, right?

15:20:50 10 A I have no knowledge of what took place over  
15:20:52 11 there.

15:20:53 12 Q Thank you.

15:20:54 13 I don't have any other questions, your  
15:20:55 14 Honor. Thank you, your Honor.

15:21:01 15 THE COURT: Redirect, Mr. Butner.

15:21:02 16 REDIRECT EXAMINATION

15:21:04 17 MR. BUTNER:

15:21:06 18 Q Okay. Deputy Taintor, you recall Mr. Knapp  
15:21:20 19 arriving at the scene; is that correct?

15:21:23 20 A Yes, sir.

15:21:23 21 Q And what kind of vehicle was he driving?

15:21:27 22 A He was driving a small white pickup truck.

15:21:29 23 Q And you indicated that, as you were facing out  
15:21:36 24 the front of Bridle Path, if I understood your testimony,  
15:21:40 25 Mr. Knapp didn't come from the left, but rather he came

15:21:43 1 kind of straight at the residence from the 90 degree turn  
15:21:49 2 there in front of Bridle Path; is that correct?

15:21:50 3 A Yes, sir.

15:21:51 4 Q And what did he do when he came down the road?  
15:21:55 5 Where did he stop?

15:21:56 6 A He stopped a few feet in the driveway.

15:21:59 7 Q Okay.

15:22:00 8 A That's where he was stopped by Sergeant Acton.

15:22:01 9 Q That is what I was just going to ask you. So he  
15:22:05 10 was headed into the driveway?

15:22:06 11 A Yes.

15:22:07 12 Q Were you blocking the driveway there with your  
15:22:10 13 vehicle?

15:22:10 14 A My vehicle was in the driveway, but he could have  
15:22:13 15 pulled in behind it and still been in the driveway.

15:22:15 16 Q Okay. Is that what it looked like he was going  
15:22:18 17 to do, come up right behind your vehicle?

15:22:19 18 A It looked like he was pulling into the driveway,  
15:22:22 19 yes.

15:22:22 20 Q Could he drive past your vehicle?

15:22:23 21 A I believe it was wide enough he could have.

15:22:25 22 Q But Sergeant Acton stopped him?

15:22:29 23 A Yes.

15:22:29 24 Q How did she do that, from your point of  
15:22:32 25 observation?

15:22:33 1           **A**     She just more or less flagged him down and made a  
15:22:38 2 motion that he was not to proceed any further.

15:22:40 3           **Q**     Okay. And were there other ways of leaving the  
15:22:49 4 Bridle Path residence besides turning left, coming out of  
15:22:52 5 the driveway at Bridle Path, and going straight down  
15:22:55 6 Bridle Path?

15:22:56 7           MR. SEARS: Foundation as to direction. Going  
15:23:00 8 where, your Honor?

15:23:02 9           THE COURT: Can you rephrase so it's more clear  
15:23:05 10 what you are talking about.

15:23:05 11           MR. BUTNER:

15:23:06 12           **Q**     When you come out of the Bridle Path residence  
15:23:09 13 driveway, are there more than one direction in which you  
15:23:12 14 can turn?

15:23:13 15           **A**     Yes, sir.

15:23:13 16           **Q**     Which directions can you turn?

15:23:16 17           **A**     You can turn to the north or you can turn to  
15:23:19 18 the -- you can turn to the north and go around that 90  
15:23:21 19 degree angle, or you can go to the south.

15:23:24 20           **Q**     Can you get out to Williamson Valley Road by  
15:23:29 21 turning to the north, that is, the direction from which  
15:23:31 22 Mr. Knapp came?

15:23:33 23           **A**     Yes, you can. You can get back out on to  
15:23:36 24 Williamson Valley. There's several roads back there.

15:23:37 25           **Q**     And is it a shorter direction? Is it a shorter

15:23:40 1 route to get to Williamson Valley Road if you go that way  
15:23:44 2 than turning left and heading straight down Bridle Path?

15:23:48 3       **A**     I believe it's probably quicker because  
15:23:50 4 Williamson Valley is 50 mile an hour. Bridle Path you  
15:23:53 5 have to slow down to 25 mile an hour. It's quite a  
15:23:56 6 distance from Williamson Valley to the house, if you stay  
15:23:59 7 on Bridle Path.

15:24:00 8       **Q**     Approximately how far is it on Bridle Path from  
15:24:06 9 the point where you first encounter Bridle Path as you're  
15:24:09 10 headed north on Williamson Valley Road?

15:24:13 11       **A**     I would say at probably a mile and a quarter,  
15:24:15 12 maybe two miles.

15:24:17 13       **Q**     So it's a mile and a quarter, two miles back  
15:24:21 14 towards Prescott where Bridle Path intersects Williamson  
15:24:26 15 Valley Road?

15:24:26 16       **A**     Yes. From the scene, yes.

15:24:28 17       **Q**     And if you were to -- want to get to Williamson  
15:24:34 18 Valley Road very quickly and get to that 50 mile per hour  
15:24:37 19 speed limit, is there a shorter distance to get there?

15:24:42 20       **A**     I believe if you had gone -- if you take one of  
15:24:45 21 the other roads that Mr. Knapp came from, it would be  
15:24:48 22 shorter.

15:24:49 23       **Q**     In fact, is that the way you left the scene?

15:24:51 24       **A**     I left that scene in that area, yes, going around  
15:24:55 25 that corner.

15:24:59 1 Q Do you remember how you got out to Williamson  
15:25:02 2 Valley Road?

15:25:02 3 A I don't recall what the name of the road was, no.

15:25:05 4 Q But it was a shorter distance than turning left  
15:25:08 5 out of the driveway and heading back towards Prescott on  
15:25:12 6 Bridle Path?

15:25:12 7 A Yes.

15:25:13 8 Q You indicated that Deputy Joy informed you that  
15:25:30 9 the door into the office on the north side of the Bridle  
15:25:37 10 Path residence was locked?

15:25:41 11 A Yes.

15:25:42 12 Q Do you remember that?

15:25:42 13 A Yes.

15:25:43 14 Q Do you know how Deputy Joy determined whether it  
15:25:49 15 was locked or not?

15:25:50 16 A I believe he visually checked it.

15:25:55 17 Q Did you see him do that?

15:25:56 18 A I saw him lean over and take a look at the door,  
15:25:59 19 yes.

15:25:59 20 Q He didn't try the handle, but rather he visually  
15:26:02 21 checked it?

15:26:02 22 A Yes.

15:26:26 23 MR. BUTNER: I don't have any further questions  
15:26:27 24 of this witness at this time, Judge.

15:26:30 25 THE COURT: Members of the Jury, if you have any

15:26:32 1 additional questions -- I have a number of them from you  
15:26:35 2 already -- please give them to the bailiff.

15:26:39 3 One of the questions, gentlemen, and  
15:26:43 4 Ms. Chapman was asking if we can see the originals of 2300  
15:26:47 5 to 2310. I am going to order those be passed to the jury  
15:26:51 6 while we're going over the questions.

15:26:53 7 While they're reviewing those photos and we  
15:26:58 8 are reviewing the questions, you may step down for the  
15:27:00 9 time being.

15:27:01 10 MR. BUTNER: Judge, could I reopen for one  
15:27:03 11 additional question?

15:27:05 12 THE COURT: Objections?

15:27:07 13 MR. SEARS: No. That's fine.

15:27:08 14 I would maybe add 2311 which was that last  
15:27:11 15 photograph we saw. It's so much easier to see than it is  
15:27:15 16 projected on the screen if the jury -- that's it, Phil. I  
15:27:21 17 would add that.

15:27:21 18 THE COURT: Any objection to passing 2311?

15:27:24 19 MR. BUTNER: No objection, Judge.

15:27:25 20 THE BAILIFF: Where are those?

15:27:27 21 THE COURT: They are up there. Those on the  
15:27:30 22 left, if you would check the numbers. I am going to meet  
15:27:41 23 with the lawyers and go over the questions, if you want to  
15:27:43 24 step down in the meantime.

15:27:44 25 MR. BUTNER: Could I ask that last one question,

15:27:46 1 your Honor.

15:27:46 2 THE COURT: If you -- go ahead, Mr. Butner.

15:27:48 3 MR. BUTNER:

15:27:48 4 Q Do you remember the photograph with the dog --

15:27:50 5 A Yes, sir.

15:27:51 6 Q -- behind you?

15:27:51 7 A Yes, sir.

15:27:52 8 Q Was there any way that dog got by you and got  
15:27:55 9 into the bedroom in which Carol Kennedy was murdered?

15:27:59 10 A I don't believe so.

15:28:03 11 MR. BUTNER: No further questions.

15:28:04 12 THE COURT: Do you have follow-up and cross of  
15:28:06 13 that?

15:28:06 14 RECROSS-EXAMINATION

15:28:06 15 MR. SEARS: Just briefly on this dog situation.

15:28:09 16 Q Did I hear you say earlier, Deputy, that you had  
15:28:13 17 looked at the dogs to see any blood on them?

15:28:16 18 A I did not.

15:28:17 19 Q Do you know if anybody else did?

15:28:19 20 A Not to my knowledge.

15:28:22 21 Q Okay. You saw the one dog there. Was there a  
15:28:24 22 second dog wandering around?

15:28:26 23 A There were two dogs. I am not sure where they  
15:28:29 24 were at the time.

15:28:30 25 Q Did you ever see them outside the house? Did

15:28:33 1 they get out?

15:28:33 2 A I don't recall.

15:28:35 3 MR. SEARS: Thank you. I don't have any other  
15:28:36 4 questions. Thank you, your Honor.

15:28:38 5 THE COURT: Any other redirect?

15:28:40 6 MR. BUTNER: No. Nothing further, Judge. Thank  
15:28:42 7 you.

15:28:43 8 THE COURT: Pass 2300 to 2311 to the jury and I  
15:28:48 9 will see counsel.

15:28:57 10 (Discussion held off the record.)

15:37:48 11 QUESTIONS BY JURY

15:37:48 12 THE COURT: Deputy Taintor, if you could resume  
15:37:55 13 the stand. We have a number of questions from the jury in  
15:38:10 14 no particular order.

15:38:11 15 If the EMTs came from the fire department,  
15:38:17 16 what was Lifeline called for?

15:38:19 17 THE WITNESS: They --

15:38:20 18 THE COURT: Why was Lifeline called?

15:38:22 19 THE WITNESS: They automatically respond with  
15:38:24 20 CYFD. Central Yavapai Fire.

15:38:27 21 THE COURT: And maybe at some point the lawyers  
15:38:34 22 can set up the photo on this, but if you know how far away  
15:38:38 23 was the cordless phone on the floor from where Carol's  
15:38:41 24 body was and what room was that?

15:38:44 25 THE WITNESS: The cordless phone was located in



15:38:47 1 the room where Carol's body was found. I don't know how  
15:38:50 2 far away from her body it was.

15:38:52 3 THE COURT: Question. When did you turn the  
15:38:55 4 lights on?

15:38:56 5 THE WITNESS: I don't know when the lights were  
15:39:00 6 turned on. When I went out and got my camera and  
15:39:03 7 returned, the desk light in the study was turned on.

15:39:06 8 THE COURT: Were the lights on when you checked  
15:39:09 9 all the door locks?

15:39:12 10 THE WITNESS: There were a number of lights on.  
15:39:14 11 I believe there was one in the hallway, main hall was on  
15:39:17 12 and also the light in the study was also on.

15:39:21 13 THE COURT: Question. If you know, how far in  
15:39:27 14 feet or yards, it says, was the neighbor's house?

15:39:32 15 I am not sure if they mean one neighbor or  
15:39:35 16 other neighbors. So if you can answer how close the  
15:39:39 17 neighbors were to the best of your knowledge.

15:39:42 18 THE WITNESS: I don't know in feet or yards. I  
15:39:47 19 don't know the answer to that.

15:39:48 20 THE COURT: All right. Question. Was there very  
15:39:51 21 much trash along the trail?

15:39:54 22 THE WITNESS: On the trailhead where I was at on  
15:39:57 23 Glenshandra, I did not observe any trash.

15:40:01 24 THE COURT: Question. How many feet from the  
15:40:04 25 floor is the blood spattered light switch in the corridor?

15:40:08 1 THE WITNESS: I don't know the exact -- exact  
15:40:13 2 distance.

15:40:14 3 THE COURT: Do you have any estimate?

15:40:17 4 THE WITNESS: I would say probably -- can you  
15:40:20 5 repeat that one more time? I know about how wide the  
15:40:24 6 hallway was.

15:40:25 7 THE COURT: The question is how many feet from  
15:40:26 8 the floor is the light switch?

15:40:29 9 THE WITNESS: Average height. I would say maybe  
15:40:36 10 three, three-and-a-half feet off the floor.

15:40:39 11 THE COURT: Was the door to the office -- and it  
15:40:47 12 says, to make clear, the door coming from the hallway that  
15:40:50 13 I'm referring to, not the door leading outside -- was the  
15:40:52 14 door to the office opened or closed when the deputies went  
15:40:56 15 to search the room where the victim was found?

15:40:58 16 THE WITNESS: The interior door off the hallway  
15:41:01 17 was open.

15:41:02 18 THE COURT: Was there a gate to keep the dogs out  
15:41:06 19 from the hallway towards the office or anything to block  
15:41:09 20 their entry during your search or clearance of the  
15:41:13 21 interior of the house?

15:41:14 22 THE WITNESS: Not that I recall.

15:41:16 23 THE COURT: Around the Glenshandra gate area,  
15:41:23 24 when did you all put up the tape?

15:41:25 25 THE WITNESS: When we returned there the second

15:41:27 1 time.

15:41:28 2 THE COURT: Any approximation on what time that  
15:41:30 3 was?

15:41:30 4 THE WITNESS: I do not have an exact time, no.

15:41:33 5 THE COURT: Question. When you and the officers  
15:41:39 6 entered the house, you said you do not remember the dogs  
15:41:42 7 you though. Is that because they were not barking when  
15:41:45 8 all of you entered?

15:41:47 9 THE WITNESS: Can you repeat the question one  
15:41:53 10 more time?

15:41:53 11 THE COURT: This is asking, when you entered the  
15:41:59 12 house, you said you did not remember the dogs. Is that  
15:42:03 13 because they were not barking when all of you entered?

15:42:06 14 THE WITNESS: I don't recall if the dogs were  
15:42:09 15 still barking or not when we entered.

15:42:13 16 THE COURT: Referring to the trailhead area,  
15:42:16 17 presumably off of Glenshandra. Question. Was the ground  
15:42:21 18 wet or damp?

15:42:24 19 THE WITNESS: I don't remember.

15:42:26 20 THE COURT: You mentioned hoof prints. Are you  
15:42:31 21 referring to horse hoof prints in that area?

15:42:36 22 THE WITNESS: Yes.

15:42:37 23 THE COURT: The question is: Why was your focus  
15:42:41 24 only on the bike and footprints by the gate as opposed to  
15:42:44 25 or including the horse hoof prints?

15:42:47 1 THE WITNESS: We were -- when we advised  
15:42:49 2 Lieutenant Rhodes and Sergeant Huante what we found, they  
15:42:52 3 said go ahead and secure that area, because we believed  
15:42:56 4 there was something of significance to the footprints and  
15:42:58 5 also maybe the tire tracks.

15:43:00 6 THE COURT: I will let the lawyers follow up with  
15:43:06 7 you on that.

15:43:07 8 I think these others were answered already.

15:43:10 9 Did the exhibits that were passed, did they  
15:43:13 10 get back to the clerk?

15:43:14 11 THE BAILIFF: Yes, sir. On the filing cabinet.

15:43:17 12 THE COURT: All right. Thank you.

15:43:18 13 Those are the questions that the jurors had  
15:43:21 14 to date.

15:43:23 15 Follow up, Mr. Butner.

15:43:24 16 REDIRECT EXAMINATION

15:43:24 17 MR. BUTNER: Thank you, Judge.

15:43:26 18 Q The Glenshandra gate, approximately --  
15:43:31 19 approximately when did you go to the Glenshandra gate the  
15:43:34 20 first time?

15:43:35 21 A What time?

15:43:36 22 Q Right.

15:43:37 23 A That was after the detectives had arrived and  
15:43:42 24 we -- they instructed us to go ahead and start talking to  
15:43:44 25 the neighbors when the neighbors gave us some information

15:43:47 1 that was of interest that involved the trails, and that's  
15:43:51 2 when we initially went -- went over to the trailhead.

15:43:54 3 After the first time we went to the  
15:43:56 4 trailhead, we turned back and reported to Lieutenant  
15:44:02 5 Rhodes and Sergeant Huante what we found with the types of  
15:44:06 6 foot prints and things we found and just different tracks  
15:44:08 7 that we found, and they said this may be significant. Go  
15:44:11 8 back over there and cordon off the whole area.

15:44:15 9 Q Okay. And so this was all before you got off of  
15:44:18 10 your shift?

15:44:18 11 A Yes, sir.

15:44:19 12 Q So it was all before about what time? 1:30, two  
15:44:23 13 o'clock in the morning?

15:44:24 14 A It was before two o'clock, yes.

15:44:26 15 Q Before two a.m.?

15:44:27 16 A Before two a.m. in the morning yes.

15:44:29 17 Q Are you one of the people that put the tape up?

15:44:31 18 A Yes, sir.

15:44:32 19 Q And then we may have a photo about the cordless  
15:44:43 20 phone. Let me see if I can --

15:45:33 21 No wonder I couldn't find it.

15:46:18 22 Let me show you Exhibit 2291 and I think  
15:46:26 23 what I will do is probably put it on the Elmo. Okay. You  
15:46:48 24 do recognize what's depicted in that exhibit, right?

15:46:51 25 A Yes. That's the phone in the study.

15:46:53 1 Q Okay. And do you recognize the items located in  
15:46:57 2 proximity to the phone in the photograph?

15:47:00 3 A It looks like an office chair and maybe there  
15:47:03 4 might be another chair over on the right.

15:47:05 5 Q Do you remember the office chair being in the  
15:47:07 6 crime scene?

15:47:08 7 A I don't -- I don't recall.

15:47:14 8 Q You don't remember where that chair was located?

15:47:17 9 A I don't remember where the chair was located in  
15:47:18 10 relation to everything.

15:49:01 11 Q Can't put this on the overhead, Judge.

15:49:04 12 Maybe we could put the screen back up,  
15:49:08 13 please. Thanks.

15:49:21 14 THE BAILIFF: It's okay. Just a paper I had on  
15:49:23 15 the back.

15:49:24 16 MR. BUTNER: Okay.

15:49:46 17 THE COURT: While they are doing this, I think I  
15:49:49 18 can go ahead and answer one of the questions that was  
15:49:51 19 asked. The question is when we deliberate, will we get to  
15:49:54 20 view all of the exhibits shown during the trial?

15:49:56 21 If an exhibit is admitted into evidence, the  
15:50:00 22 answer is yes. All of the exhibits will be given to you  
15:50:06 23 that were shown during the trial.

15:50:09 24 You have been shown portions of aerial  
15:50:12 25 photographs, for example, a few minutes ago that so far

15:50:16 1 have not been admitted into evidence, but were allowed by  
15:50:19 2 stipulation between the parties to be shown for  
15:50:22 3 illustrative purposes.

15:50:25 4 If such photographs are not ultimately  
15:50:27 5 admitted into evidence, you would not have them in  
15:50:30 6 evidence. So if it's not admitted, you won't have it. If  
15:50:33 7 it is admitted, you will have it.

15:50:37 8 Generally you only see things that are  
15:50:39 9 admitted, but sometimes there are things that are put up  
15:50:44 10 and shown only for purposes of illustration and those will  
15:50:48 11 not be there, but any that are admitted into evidence,  
15:50:52 12 yes, you will have to review as much as you want during  
15:50:58 13 the course of deliberations.

15:51:13 14 Do you still need to do further logistical  
15:51:16 15 setup? I have a couple other questions I need to go over.

15:51:19 16 MR. BUTNER: Feel free, your Honor. We are  
15:51:22 17 working at this.

15:51:36 18 THE COURT: Are you ready?

15:51:37 19 MR. BUTNER: I am ready.

15:51:38 20 THE COURT: Go ahead. We will do the questions  
15:51:40 21 later.

15:51:41 22 MR. BUTNER:

15:51:43 23 Q Okay. I showed you Exhibit 2291, right? Do you  
15:51:55 24 remember seeing that?

15:51:55 25 A Yes.

15:51:56 1 Q Okay. Now let me show you Exhibit Number 2277.

15:52:11 2 Do you recognize the office chair in there?

15:52:12 3 A Yes, sir.

15:52:13 4 Q Do you recognize the white chair that was also in  
15:52:17 5 the photograph with the phone?

15:52:19 6 A May I come up there and take a closer look? Kind  
15:52:22 7 of hard at the angle.

15:52:23 8 Q Sure. You bet.

15:52:27 9 A Okay. Yes. I see the chair. The white chair is  
15:52:30 10 right there, the office chair and it appeared to be -- the  
15:52:32 11 phone -- the phone appeared to be back behind that chair  
15:52:35 12 in the other photo.

15:52:37 13 Q So somewhere back and would you point to where  
15:52:42 14 you think the phone was located again for the jury?

15:52:44 15 A Okay. It appeared, in one of the other photos,  
15:52:47 16 it appeared to have an angle of the chair here and then,  
15:52:50 17 of course, the white chair right there and it appeared  
15:52:52 18 like the phone was back in here somewhere.

15:52:54 19 Q Some place right behind the office chair and the  
15:52:57 20 white chair?

15:52:57 21 A Yes, sir.

15:53:01 22 Q You may resume the stand. Yes, sir. I am going  
15:53:07 23 to go ahead and take that down. Thank you very much.

15:53:32 24 I think we can put that down, Phil. Thank  
15:53:39 25 you.



15:53:39 1 When you were at the Glenshandra trailhead,  
15:54:01 2 did you notice any signs of recent rainfall at that area?

15:54:05 3 A I don't recall.

15:54:07 4 Q Didn't see any mud tracks anywhere?

15:54:10 5 A I don't recall.

15:54:13 6 Q At any point in time when you were inside the  
15:54:30 7 house and in the area of the office where the body was  
15:54:33 8 located, did you ever see the dogs enter that room?

15:54:37 9 A No, sir.

15:54:38 10 MR. BUTNER: No further questions at this time,  
15:54:40 11 Judge. Thank you.

15:54:43 12 THE COURT: Follow up questions, Mr. Sears.

15:54:44 13 RECROSS-EXAMINATION

15:54:47 14 MR. SEARS: I do. Thank you, your Honor.

15:54:49 15 Q Talking about that drop of, whatever it was, that  
15:54:53 16 you thought might have been blood on the light switch  
15:54:56 17 across the hall from the door into the room where the body  
15:55:00 18 was, did Deputy Schilling take a picture of that?

15:55:04 19 A I believe I took a picture.

15:55:05 20 Q You took a picture.

15:55:06 21 Okay. Let me show you -- this is part of  
15:55:10 22 Exhibit 816. Let me show you what's come out of Exhibit  
15:55:27 23 816. Do you recognize that photograph?

15:55:29 24 A Yes.

15:55:31 25 Q Is that the photograph of the light switch that

15:55:33 1 you took on the night of July 2nd, 2008, at the address on  
15:55:38 2 Bridle Path?

15:55:41 3 A I don't recall.

15:55:46 4 Q If I told you that it was provided to us in  
15:55:49 5 disclosure in this case as part of a larger group of  
15:55:52 6 photographs that you did take, would that help you  
15:55:53 7 remember?

15:55:54 8 A I don't recall.

15:55:57 9 Q Do you remember what the light switch looked like  
15:55:59 10 apart from whether you took that particular photograph?  
15:56:02 11 Do you remember what the light switch looked like?

15:56:03 12 A I believe it was like that. Looked like that.

15:56:07 13 Q So are you saying as you sit here today you just  
15:56:09 14 can't tell us that that's the light switch that you  
15:56:11 15 photographed that night?

15:56:12 16 A I just don't recall that.

15:56:14 17 Q Okay. Fair enough.

15:56:16 18 Can you see anything of interest on this  
15:56:19 19 light switch in that photograph?

15:56:20 20 A It appears to be like a little smidgen of  
15:56:23 21 something right there.

15:56:24 22 Q Thinking about that whole smudge of something, is  
15:56:27 23 that what you were trying to photograph? You didn't just  
15:56:28 24 want to add to your collection of switch photos I imagine,  
15:56:31 25 right?

15:56:32 1           **A**     There was something significant in there. I just  
15:56:34 2 don't recall -- I just don't call this image in my mind.

15:56:37 3           **Q**     Without regard to this image, thinking about what  
15:56:41 4 you saw, was there a smudge near the switch that you were  
15:56:43 5 trying to photograph?

15:56:44 6           **A**     There was -- there was something on that that I  
15:56:46 7 believed to be blood that was on the switch that I took.

15:56:48 8           **Q**     And did you see that in this photograph?

15:56:50 9           **A**     I see -- I see a piece of something there on the  
15:56:54 10 side there that would -- it's brown in color. I am just  
15:56:59 11 not positive.

15:57:00 12           **Q**     So you are not prepared to identify this photo  
15:57:02 13 for us?

15:57:03 14           **A**     I am not.

15:57:04 15           **Q**     Fair enough.

15:57:09 16                   Somebody has 2311. We have got too many  
15:57:15 17 exhibits out, your Honor.

15:57:16 18           THE COURT: Maybe.

15:57:17 19           MR. SEARS: Have a rule. Here we go. Found it.

15:57:31 20           **Q**     Let me show you Exhibit 2311 here again.

15:57:41 21                   This is Exhibit 2311, and you told us a fair  
15:57:45 22 amount about this, and some jurors had questions about  
15:57:49 23 horse hoof prints. Where did you see horse hoof prints in  
15:57:52 24 relation to that gate in Exhibit 2311 that night?

15:57:55 25           **A**     Ah, I was kind of in the whole -- kind of in that

15:57:59 1 area over there.

2 Q Okay?

15:58:02 3 A I don't -- I can't be -- I can't be specific on  
15:58:05 4 where I actually saw hoof prints.

15:58:08 5 Q Okay. Did you see them on the pavement side of  
15:58:13 6 the gate where this photograph was taken from? Did you  
15:58:15 7 see them out in that area? Out there?

15:58:17 8 A No.

15:58:18 9 Q Did you see them then on the open land inside.  
15:58:23 10 -- inside that gate?

15:58:24 11 A I have a recollection there was some hoof prints  
15:58:27 12 out there. I -- but I don't know where that was in  
15:58:29 13 relation to the gate. I can't remember.

15:58:31 14 Q And you can see in that photograph it looks like  
15:58:34 15 there are trails, not only a trail that goes straight  
15:58:36 16 ahead, but it looks like trails off to the right and maybe  
15:58:39 17 off to the left. Is that what you remember?

15:58:41 18 A I don't -- I don't see any more trails off to the  
15:58:51 19 left. It looks like it might just turn into -- might just  
15:58:54 20 be kind of an open area.

15:58:56 21 Q Looks like a trail off to the right though,  
15:58:58 22 doesn't it?

15:58:59 23 A It -- in this photo, yes.

15:59:01 24 Q Do you remember a trail off to the right?

15:59:03 25 A I don't.

15:59:04 1 Q Okay. Have you been back since that night to  
15:59:06 2 this location?

15:59:06 3 A I have been in the area, but I have never been  
15:59:10 4 back across this gate.

15:59:11 5 Q Is it fair to say that you saw horse hoof prints  
15:59:16 6 on the open land behind that gate some place?

15:59:19 7 A Yes.

15:59:20 8 Q Okay. And there were a number of them, right?  
15:59:22 9 Not just one or two?

15:59:24 10 A I couldn't tell you how many I saw back there.

15:59:29 11 Q And you saw some shoe prints and you saw some  
15:59:32 12 bicycle tracks, right?

15:59:33 13 A Yes.

15:59:34 14 Q And you saw shoe prints made by a number of  
15:59:36 15 different kind of shoes?

15:59:38 16 A I don't really know how many different shoe  
15:59:40 17 prints there were back there.

15:59:41 18 Q Were there a lot of shoe prints?

15:59:42 19 A I don't remember.

15:59:45 20 Q Was it your impression this was a fairly traveled  
15:59:48 21 trail being right on the other side of a public gate like  
15:59:52 22 that?

15:59:52 23 A I don't know how well traveled it is.

15:59:54 24 Q Based on what was on the ground, based on the  
15:59:57 25 hoof prints and the bicycle tracks and the shoe prints,

16:00:01 1 people and horses had been back there apparently, right?

16:00:04 2 A People had been back there, yes.

16:00:05 3 Q Well, what about the hoof prints? Horses?

16:00:09 4 A You said it was ranch land.

16:00:12 5 Q Did you see any cow prints, cow hooves?

16:00:17 6 A I don't recall.

16:00:17 7 Q Did you see horse or cow manure?

16:00:20 8 A I don't recall.

16:00:21 9 MR. SEARS: I don't have any other questions.

16:00:22 10 Thank you.

16:00:24 11 THE COURT: Further questions on follow-up on

16:00:26 12 Mr. Sears?

16:00:28 13 MR. BUTNER: Yes, Judge.

16:00:31 14 REDIRECT EXAMINATION

16:00:32 15 MR. BUTNER:

16:00:32 16 Q Were you able to go out and look at this scene in  
16:00:35 17 the daylight?

16:00:37 18 A No, sir.

16:00:38 19 Q So the only time that you were out there looking  
16:00:40 20 at that scene, it was dark?

16:00:41 21 A Yes, sir.

16:00:42 22 Q You just shined your flashlight out there?

16:00:46 23 A Yes, sir.

16:00:48 24 MR. BUTNER: No further questions.

16:00:50 25 THE COURT: I need to see both sides.

16:00:52 1 MR. SEARS: No.

16:00:53 2 THE COURT: I have some more questions.

16:00:54 3 MR. SEARS: Thank you, your Honor.

16:00:56 4 THE COURT: If there are any more questions, pass

16:00:58 5 them over to the bailiff.

16:01:00 6 (Discussion held off the record.)

16:02:03 7 QUESTIONS BY JURY

16:02:03 8 THE COURT: Just a few more questions,

16:02:09 9 Mr. Taintor.

16:02:10 10 Question from the jury. Was the room in

16:02:12 11 which the phone was found carpeted?

16:02:16 12 THE WITNESS: Yes.

16:02:17 13 THE COURT: Was there blood on the phone?

16:02:23 14 THE WITNESS: I don't recall.

16:02:24 15 THE COURT: In your opinion, were the horse hoof

16:02:29 16 prints any fresher than the bicycle tracks and footprints

16:02:32 17 out by Glenshandra, I presume that it's talking about?

16:02:35 18 THE WITNESS: I'm not trained in tracking. I

16:02:38 19 wouldn't know.

16:02:40 20 THE COURT: I have one other question.

16:02:49 21 If there are any more, pass them to the

16:02:52 22 bailiff. I need to meet with the lawyers about all

16:02:58 23 questions.

16:03:01 24 (Discussion held off the record.)

16:04:35 25 THE COURT: I received a question from the jury

16:04:41 1 that I am not going to ask of Deputy Taintor. The  
16:04:46 2 question was did other officers visit the Glenshandra site  
16:04:49 3 on the other side of the gate during daylight? If so, are  
16:04:52 4 there other photos taken during the daytime?

16:04:55 5 The lawyers have agreed that I can tell you  
16:04:58 6 there are other witnesses who will be testifying about  
16:05:00 7 having visited the Glenshandra area during the daytime  
16:05:05 8 from whom you will hear.

16:05:11 9 You may step down, Deputy Taintor.

16:05:20 10 THE BAILIFF: Your Honor.

16:05:21 11 THE COURT: Can Deputy Taintor be excused from  
16:05:23 12 further participation in the trial and released from his  
16:05:26 13 subpoena or do you wish him subject to recall?

16:05:29 14 MR. BUTNER: Judge, he may be released as far as  
16:05:32 15 the State is concerned.

16:05:34 16 THE COURT: Defense?

16:05:34 17 MR. SEARS: As far as defense is concerned as  
16:05:36 18 well.

16:05:36 19 THE COURT: You are released from your subpoena.  
16:05:38 20 You can remain in the courtroom if you wish, having  
16:05:40 21 testified, or you can go about your business, but you are  
16:05:44 22 not subject to recall.

16:05:47 23 Do you have another witness ready?

16:05:52 24 MR. BUTNER: I do, Judge. I call Sergeant  
16:05:55 25 Candice Acton to the stand, please.



16:06:39 1 THE BAILIFF: Just raise your right hand for the  
16:06:41 2 clerk.

16:06:42 3 CANDICE ACTON  
16:06:52 4 called, sworn, and testified as follows:

16:06:52 5 THE BAILIFF: Watch the steps.

16:06:55 6 THE COURT: You may proceed.

16:07:04 7 DIRECT EXAMINATION

16:07:04 8 MR. BUTNER: Thank you.

16:07:04 9 Q Please state your name for the record.

16:07:08 10 A Candice Alexandra Acton.

16:07:10 11 Q And what is your occupation?

16:07:13 12 A I am a sergeant with the Yavapai County Sheriff's  
16:07:14 13 office.

16:07:14 14 Q And how long have you been with the Yavapai  
16:07:18 15 County Sheriff's office?

16:07:18 16 A 16 years, ten months.

16:07:21 17 Q But who is counting?

16:07:24 18 A Not counting at all.

16:07:25 19 Q Have you had any special training to prepare  
16:07:31 20 yourself for your occupation as a Yavapai County Sheriff's  
16:07:35 21 deputy?

16:07:35 22 A No, I have not.

16:07:36 23 Q Did you go to a law enforcement academy?

16:07:39 24 A Yes, I did.

16:07:40 25 Q Would you tell us what academy you attended?

16:07:44 1       **A**     I attended the one down in Phoenix.   ALETa.

16:07:48 2       **Q**     When was that?

16:07:51 3       **A**     It would be August of 1993 to November of 1993.

16:07:56 4       **Q**     And then after -- I assume you graduated from  
16:08:00 5 that academy?

16:08:01 6       **A**     Yes.

16:08:02 7       **Q**     After graduating from the ALETa academy, did you  
16:08:05 8 become employed with the Yavapai County Sheriff's office?

16:08:08 9       **A**     Yes, I did.

16:08:09 10      **Q**     And have you been steadily employed so to speak  
16:08:13 11 as a Sheriff's deputy since that time?

16:08:15 12      **A**     Yes, I have.

16:08:16 13      **Q**     You are a sergeant; is that correct?

16:08:20 14      **A**     That's correct.

16:08:21 15      **Q**     How long have you been a sergeant?

16:08:22 16      **A**     October 28, 2001.

16:08:26 17      **Q**     And were you performing your duties as a Yavapai  
16:08:33 18 County Sheriff's deputy, a sergeant on July the 2nd of the  
16:08:38 19 year 2008?

16:08:39 20      **A**     Yes, I was.

16:08:41 21      **Q**     What were your duties specifically on that date?

16:08:44 22      **A**     I was a patrol sergeant.   I supervise and I also  
16:08:48 23 handle calls.

16:08:49 24      **Q**     And had you been a patrol sergeant since 2001?

16:08:55 25      **A**     Yes, I had.

16:08:57 1 Q On July 2nd of 2008, did you have occasion to  
16:09:01 2 respond to an address at 7485 Bridle Path?

16:09:06 3 A Yes, I did.

16:09:07 4 Q Would you tell us how you came to respond to that  
16:09:10 5 particular address?

16:09:11 6 A Deputy Taintor had been assigned a call at that  
16:09:15 7 address. Dispatch was given a welfare check, a code  
16:09:19 8 four -- or code 500 basically on the deputy. The deputy  
16:09:22 9 was not responding. I asked for his location and I went  
16:09:26 10 there to check on him.

16:09:27 11 Q A code 500 check. Would you explain to us what  
16:09:31 12 that is?

16:09:31 13 A It's a welfare check on the officer and basically  
16:09:35 14 dispatch is looking for a response from the officer and  
16:09:38 15 the officer was not responding to dispatch.

16:09:40 16 Q So you responded to see if the deputy was okay?

16:09:46 17 A Yes.

16:09:46 18 Q Deputy Taintor?

16:09:47 19 A Yes.

16:09:48 20 Q Approximately what time was this when you were  
16:09:51 21 responding to that particular address?

16:09:53 22 A 21:01 hours.

16:09:56 23 Q Okay. That would be 9:01?

16:10:01 24 A 9:01 p.m.

16:10:03 25 Q P.m. Thank you very much.

16:10:05 1 And is that when you arrived at the Bridle  
16:10:11 2 Path address?

16:10:11 3 A No. That's when I responded.

16:10:13 4 Q Okay. Do you know what time you arrived  
16:10:15 5 approximately?

16:10:16 6 A 9:10 p.m.

16:10:18 7 Q And were you activating your sirens and lights  
16:10:25 8 when you got there?

16:10:27 9 A No, I was not.

16:10:28 10 Q You just drove up expeditiously so to speak?

16:10:32 11 A Yes.

16:10:32 12 Q Okay. So when you arrived at the Bridle Path  
16:10:39 13 address at 9:10 p.m., what did you find?

16:10:41 14 A I met Deputy Taintor at the driveway and I had  
16:10:45 15 already made contact with his telephone. He had called me  
16:10:49 16 and just let me know that he was okay, but he wanted me to  
16:10:52 17 respond to the scene. So I told him to back out to the  
16:10:54 18 driveway, and I met him at the edge of the driveway.

16:10:57 19 Q And did he give you information as to what he had  
16:11:04 20 at the scene?

16:11:04 21 A Yes, he did.

16:11:05 22 Q What did he tell you?

16:11:06 23 A He told me he had gone to that address to perform  
16:11:09 24 a welfare check on a Carol. While looking around inside  
16:11:13 25 the windows, he had found a lady laying on the floor. She

16:11:16 1 was unresponsive and he felt the circumstances were  
16:11:19 2 suspicious and he requested me to come there.

16:11:22 3 Q Okay. So when you arrived, what did you do at  
16:11:30 4 that point?

16:11:30 5 A I again talked to Deputy Taintor briefly to  
16:11:34 6 confirm what he had told me on the telephone and while  
16:11:38 7 gathering my game plan and waiting for a couple more  
16:11:41 8 deputies to arrive, somebody else had pulled up and caught  
16:11:45 9 my attention.

16:11:45 10 Q So you called for more deputies to arrive?

16:11:48 11 A I asked Deputy Taintor to give patrol office a  
16:11:53 12 call and have a couple more people come, yes.

16:11:55 13 Q Did you tell him who you wanted to come out  
16:11:59 14 there?

16:11:59 15 A Not specifically, no.

16:12:01 16 Q Just at least two more deputies?

16:12:03 17 A Yes.

16:12:04 18 Q And while you were awaiting there, you said  
16:12:08 19 something else got your attention?

16:12:09 20 A Yes.

16:12:10 21 Q What was that?

16:12:11 22 A A Ford Ranger pickup came from the south on  
16:12:15 23 Bridle Path and it pulled up to the driveway where I was  
16:12:18 24 standing. I stopped the vehicle. I talked to the driver.  
16:12:22 25 He identified himself as Mr. Knapp and --

16:12:27 1 Q Okay. When you say a Ford Ranger pickup came  
16:12:32 2 from the south, if you would help orient us, and we have a  
16:12:58 3 laser --

16:12:59 4 THE BAILIFF: Right there.

16:13:01 5 MR. BUTNER:

16:13:01 6 Q -- pointer if you require that.

16:13:04 7 Thank you.

16:13:06 8 Would you point to -- do you recognize the  
16:13:14 9 area depicted on the map?

16:13:15 10 A Yes, I do.

16:13:17 11 Q Okay. Would you point to the Bridle Path  
16:13:19 12 address, please?

16:13:19 13 A (Witness indicating.)

16:13:22 14 Q When you say that a Ford Ranger pickup came from  
16:13:25 15 the south to the Bridle Path address, would you show us  
16:13:30 16 the direction in which the Ranger pickup came from?

16:13:35 17 A From this direction.

16:13:38 18 Q And when you saw this -- the Ranger pickup pull  
16:13:43 19 up to the Bridle Path address, was it -- obviously it was  
16:13:51 20 an occupied vehicle. Who was driving?

16:13:53 21 A Mr. Knapp.

16:13:55 22 Q Did the vehicle attempt to turn into the Bridle  
16:14:03 23 Path driveway?

16:14:03 24 A It had pulled up into right at the edge of the  
16:14:05 25 driveway where I was standing.

16:14:07 1 Q Okay. Now, Bridle Path is -- this residence is  
16:14:11 2 on the end of Bridle Path; is that correct?

16:14:14 3 A That's correct.

16:14:14 4 Q And the street makes an abrupt left turn at the  
16:14:21 5 Bridle Path address; is that correct?

16:14:23 6 A That's correct.

16:14:25 7 Q So Mr. Knapp came from the southerly direction  
16:14:28 8 and not the direction to the west of Bridle Path?

16:14:31 9 A That's correct.

16:14:34 10 Q How is it that you are able to remember this  
16:14:37 11 direction that Mr. Knapp was coming from?

16:14:39 12 A I just remember standing there talking to Deputy  
16:14:45 13 Taintor and looking that direction as the vehicle  
16:14:47 14 approached and it kept coming closer and I was wondering  
16:14:51 15 why.

16:14:52 16 Q Okay. And did you take any action to prevent Mr.  
16:14:56 17 Knapp from driving into the driveway?

16:14:57 18 A Yes, I did. I turned on my flashlight and I lit  
16:15:01 19 myself up and also shined it in his eyes.

16:15:03 20 Q Did you stand in his path of travel?

16:15:07 21 A Yes, I did.

16:15:09 22 Q I assume he brought his vehicle to a stop?

16:15:12 23 A Yes, he did.

16:15:13 24 Q Okay. And what occurred once he did that?

16:15:17 25 A I went up and I identified myself and started

16:15:21 1 talking to him. Asked him why he had pulled up at that  
16:15:24 2 address.

16:15:25 3 Q And what did he tell you?

16:15:26 4 A He told me that he lived in the guesthouse on the  
16:15:28 5 property.

16:15:29 6 Q And what else transpired there with Mr. Knapp  
16:15:38 7 between you and him?

16:15:39 8 A We basically discussed where he had been for the  
16:15:45 9 afternoon. When he was last there at the residence.

16:15:48 10 Q Uh-huh.

16:15:48 11 A Who else lived on the property.

16:15:50 12 Q Did he tell you who else lived on the property?

16:15:52 13 A He told me that Carol Kennedy lived on the  
16:15:56 14 property.

16:15:57 15 Q Did he indicate to you where he had been?

16:16:00 16 A He indicated that he had been in Prescott and  
16:16:03 17 visiting his sons for the afternoon.

16:16:05 18 Q Were you asking him these questions?

16:16:07 19 A Yes, I was.

16:16:08 20 Q Why were you asking him these questions?

16:16:11 21 A Curious as to what he's been doing.

16:16:14 22 Q Were you concerned that he might have something  
16:16:20 23 to do with the lady that was in the back bedroom of the  
16:16:25 24 residence?

16:16:26 25 A Yes, I do (sic).



16:16:28 1 Q Were you gathering information as part of that  
16:16:30 2 investigation?

16:16:31 3 A Yes, I was.

16:16:32 4 Q Okay. So after having had this conversation with  
16:16:35 5 Mr. Knapp, what took place in regard to Mr. Knapp?

16:16:39 6 A I got his driver's license. I ran him to make  
16:16:43 7 sure there was no wants, there's no warrants. I directed  
16:16:45 8 him to park over behind my patrol car, which was down the  
16:16:48 9 road, and he was cooperative. He pulled over, parked  
16:16:52 10 there, and he got out of his vehicle and stood by with me.

16:16:55 11 Q And approximately what time was this when Mr.  
16:17:02 12 Knapp pulled up?

16:17:02 13 A According to the radio log, I was on scene at  
16:17:06 14 9:10 p.m. I ran his driver's license at 9:16 p.m.

16:17:11 15 Q And then he remained there?

16:17:16 16 A Yes, he did.

16:17:17 17 Q And did other deputies arrive?

16:17:21 18 A Yes. At 9:17 p.m. the rest of the cavalry  
16:17:26 19 arrived.

16:17:26 20 Q Okay. And who would that be?

16:17:28 21 A That was Sergeant Howard, Deputy Boan, Deputy Joy  
16:17:35 22 and the trainee Deputy Schilling.

16:17:36 23 Q You say the trainee, Deputy Schilling. Was he  
16:17:41 24 with somebody else?

16:17:43 25 A Yes. He was assigned to field training officer

16:17:45 1 Deputy Joy.

16:17:46 2 Q So Schilling was in field training so to speak  
16:17:51 3 with Deputy Joy?

16:17:52 4 A That's correct.

16:17:53 5 Q So there were just -- just -- there were three  
16:17:57 6 other cars rather than four; is that correct?

16:17:59 7 A That would be correct.

16:18:00 8 Q And there were already two there?

16:18:02 9 A That's correct.

16:18:02 10 Q Okay. So after these other officers arrived,  
16:18:10 11 what took place?

16:18:11 12 A I assigned Deputy Boan to stay with Mr. Knapp. I  
16:18:16 13 requested him to get a statement from him.

16:18:18 14 I then got a hold of the rest of the people.  
16:18:20 15 We made a plan as to how we were going to approach the  
16:18:23 16 property and what we were going to do as far as  
16:18:25 17 tactically-wise.

16:18:27 18 Q Okay.

16:18:27 19 A Deputy Joy took point. Deputy Taintor and myself  
16:18:32 20 and rest of them followed in and then Deputy Taintor and  
16:18:35 21 I, we came to the first building, which was the  
16:18:38 22 guesthouse.

16:18:38 23 Q All right.

16:18:39 24 A Deputy Taintor and I entered the guesthouse.

16:18:42 25 Q So you assigned these other deputies various

16:18:46 1 tasks in connection with this operation so to speak?

16:18:50 2 A Yes.

16:18:52 3 Q All right. Deputy Joy was at point, right?

16:18:54 4 A Yes. He was in the front.

16:18:56 5 Q And was there a particular reason why Deputy Joy  
16:18:58 6 was selected to be point?

16:19:00 7 A I think he likes that position and he also had  
16:19:03 8 previous SWAT training, so he would be a good candidate  
16:19:06 9 for that spot.

16:19:07 10 Q Okay. Were all of you armed at this point?

16:19:09 11 A Yes, we were.

16:19:10 12 Q Did you have your weapons drawn?

16:19:12 13 A Yes, we did.

16:19:13 14 Q And so the plan was, first of all, to go to the  
16:19:21 15 guesthouse?

16:19:21 16 A We went to the first building that we came to and  
16:19:24 17 that happened to be the guesthouse.

16:19:26 18 Q Okay. And when you say we, who is we at this  
16:19:29 19 point?

16:19:29 20 A Um, that would be Deputy Joy, Deputy Taintor,  
16:19:33 21 myself, Sergeant Howard, and Deputy Schilling.

16:19:37 22 Q Did you all enter the guesthouse?

16:19:43 23 A Negative. Just myself and Deputy Taintor.

16:19:45 24 Q And what was the purpose of going to the  
16:19:50 25 guesthouse?

16:19:50 1           **A**     Searching for victims and suspects.

16:19:54 2           **Q**     And would you describe for us how that particular  
16:20:00 3 search was conducted?

16:20:01 4           **A**     I opened up the door that led into the kitchen  
16:20:05 5 area using my flashlight. Searched around looking for any  
16:20:08 6 spots that anybody could be hiding in. Continued through  
16:20:12 7 down to the bedroom area, searching in closets. Anyplace  
16:20:16 8 that I could find a human being in. Went down into the  
16:20:19 9 garage area. I believe there is an attic in there and  
16:20:22 10 there was a ladder going up to the attic. I had to climb  
16:20:25 11 up and physically look around with my flashlight. Worked  
16:20:28 12 my way back down. And just searched around there to make  
16:20:31 13 sure it was clear with no -- basically no more human  
16:20:34 14 beings in there.

16:20:35 15           **Q**     Okay. So you went through every location  
16:20:38 16 throughout the guesthouse?

16:20:39 17           **A**     That's correct.

16:20:41 18           **Q**     And basically were you doing this?

16:20:43 19           **A**     And Deputy Traintor was right behind me.

16:20:45 20           **Q**     Okay. Did Deputy Traintor climb up in the attic  
16:20:48 21 with you?

16:20:49 22           **A**     No.

16:20:49 23           **Q**     That was just you?

16:20:50 24           **A**     Yes.

16:20:50 25           **Q**     And when you were looking in all of these

16:20:52 1 locations, it was dark at that point in time?

16:20:55 2 A Yes, it is.

16:20:57 3 Q And you had your flashlight?

16:20:58 4 A Yes.

16:20:58 5 Q And you were looking for human beings?

16:21:04 6 A Yes.

16:21:05 7 Q Were you looking for anything else?

16:21:07 8 A Not unless it stands out in front of me. If it  
16:21:10 9 seems suspicious or there's anything that looks like it  
16:21:14 10 belongs to the crime scene, I will make a mental note of  
16:21:17 11 it.

16:21:17 12 Q Anything suspicious in nature?

16:21:19 13 A Yes.

16:21:20 14 Q Did you look in the bathroom in the guesthouse?

16:21:24 15 A Yes.

16:21:24 16 Q Did you look in the shower in the guesthouse?

16:21:27 17 A Yes.

16:21:27 18 Q And how many closets were there if you can  
16:21:32 19 recall?

16:21:33 20 A I don't recall.

16:21:34 21 Q At least one though?

16:21:35 22 A Yes.

16:21:36 23 Q And when you were in the garage area in addition  
16:21:41 24 to the attic area, and tell us, if you would, where the  
16:21:44 25 attic area was located in the garage?

16:21:46 1           **A**     When you go in, it was up to the right.

16:21:51 2           **Q**     Okay.

16:21:51 3           **A**     From what I recall. I don't recall too much

16:21:53 4     more.

16:21:53 5           **Q**     How did you get to the attic area in the garage?

16:21:55 6           **A**     I had to climb a ladder.

16:21:57 7           **Q**     And you climbed up there and illuminated that

16:22:00 8     area searching?

16:22:01 9           **A**     Yes.

16:22:01 10          **Q**     And in the lower part of the garage area, did you

16:22:06 11     look in all the nooks and crannies in the lower part of

16:22:10 12     the garage area?

16:22:11 13          **A**     Yes, I did.

16:22:11 14          **Q**     Looking for a victim or a suspect or --

16:22:15 15          **A**     A human being.

16:22:16 16          **Q**     -- or something suspicious?

16:22:19 17          **A**     Yes.

16:22:19 18          **Q**     Did you find anything?

16:22:23 19          **A**     No, I did not.

16:22:24 20          **Q**     Approximately how long were you in the guesthouse

16:22:29 21     area doing this searching?

16:22:30 22          **A**     Probably three minutes, four minutes.

16:22:35 23          **Q**     And Taintor was also searching while you were

16:22:41 24     doing your searching?

16:22:41 25          **A**     Yes. We were both looking.

16:22:43 1 Q And after completing this searching of the  
16:22:48 2 guesthouse, then what did you do?

16:22:50 3 A We exited the same way we went in and we met up  
16:22:54 4 with the rest of the deputies and --

16:22:57 5 Q Let's back up for just a second. What way did  
16:22:59 6 you go into the guesthouse?

16:23:01 7 A Whichever door -- I guess it was on the -- the  
16:23:06 8 east side of the -- it leads into the kitchen area.

16:23:15 9 Q That's the same way that you exited?

16:23:17 10 A Yes.

16:23:17 11 Q Approximately how far is the guesthouse from the  
16:23:23 12 main house?

16:23:24 13 A Maybe 50, 60 feet. Maybe a little bit more.

16:23:29 14 Q And then after going through and searching the  
16:23:35 15 guesthouse, and exiting out the door on the east side,  
16:23:39 16 what did you do then?

16:23:40 17 A I met up with the Deputy Joy, Deputy Schilling  
16:23:43 18 and Sergeant Howard that were still stationed out in the  
16:23:47 19 yard area.

16:23:47 20 Q Okay. Where were they stationed in the yard  
16:23:53 21 area?

16:23:53 22 A Between the guesthouse and the residence.

16:23:56 23 Q And after joining them at that area, what did you  
16:24:02 24 do?

16:24:02 25 A We proceeded up to the main house.

16:24:05 1 Q And which side of the main house were you on at  
16:24:10 2 this point in time?

16:24:11 3 A That would be the south side.

16:24:12 4 Q Right. Thank you.

16:24:35 5 Let me show you what is already admitted  
16:25:43 6 into evidence as Exhibit 2250. Do you recognize what's  
16:25:56 7 depicted in that particular photograph?

16:25:58 8 A Yes. I recognize the residence.

16:26:01 9 Q Okay. And what is that?

16:26:03 10 A It's Kennedy's house.

16:26:07 11 Q Pardon?

16:26:08 12 A It's Kennedy's house.

16:26:09 13 Q Is that the guesthouse?

16:26:10 14 A Um, hard to tell in the daylight here.

16:26:16 15 Q Okay. Let me show you Exhibit Number 2252. Do  
16:26:26 16 you recognize what's depicted in that photograph?

16:26:29 17 A The main residence.

16:26:30 18 Q All right. And is the area in which you and the  
16:26:36 19 other deputies staged, so to speak, before your entry into  
16:26:41 20 the main residence, is that depicted in this photograph?

16:26:43 21 A Yes. That is --

16:26:45 22 Q You have got the laser printer. Would you show  
16:26:48 23 us where you gathered?

16:26:50 24 A Roughly this area right here. Here.

16:26:56 25 Q Let me show you -- this is Exhibit Number 2257.



16:27:04 1 Is that a little better for your purposes?

16:27:06 2 A Yes, it is.

16:27:07 3 Q Okay. Show us where you gathered please.

16:27:09 4 A About down in this area.

16:27:11 5 Q And you had just gone through the guesthouse,  
16:27:14 6 right?

16:27:14 7 A That's correct.

16:27:15 8 Q And then would you describe for us what you did  
16:27:19 9 in terms of entering into the main residence?

16:27:21 10 A We entered up in the patio area, came to the  
16:27:26 11 south doors. I believe it's a glass door.

16:27:33 12 Q And is this the patio area that you're talking  
16:27:36 13 about?

16:27:36 14 A Yes.

16:27:37 15 Q Okay. And would you show us where the glass door  
16:27:40 16 is located that you entered the residence from?

16:27:43 17 A In that general area over there.

16:27:47 18 Q All right. And Joy was on point?

16:27:52 19 A Yes, sir.

16:27:53 20 Q You were behind him?

16:27:54 21 A Yes.

16:27:55 22 Q Okay. And then the others were behind you?

16:27:57 23 A Yes.

16:27:58 24 Q Do you remember any dogs being present?

16:28:01 25 A Yes, I do.

16:28:03 1 Q Would you tell us about those dogs, please?

16:28:05 2 A As we approached the doors, I could see two small  
16:28:08 3 dogs at the glass door, jumping and barking at us. I  
16:28:12 4 could hear them at that point. We were right in this  
16:28:14 5 area. Actually visually see them with a flashlight, and  
16:28:18 6 we kept going up to the door. They were just barking at  
16:28:20 7 us, and we opened the door and the dogs proceeded out.  
16:28:24 8 They ran by us and we went in.

16:28:26 9 Q And you just ignored the dogs for the moment?

16:28:29 10 A That's correct.

16:28:30 11 Q Okay. And entered the residence?

16:28:32 12 A Yeah. They weren't biting us. They weren't  
16:28:35 13 attacking us, so we went in.

16:28:36 14 Q And they're really small little dogs?

16:28:37 15 A They were little dogs, yeah.

16:28:39 16 Q Yappers so to speak.

16:28:41 17 So you entered the residence, and the dogs  
16:28:46 18 ran out and what did you do after you entered the  
16:28:48 19 residence?

16:28:49 20 A When we went in, we tactically proceeded through  
16:28:53 21 the kitchen, dining room area. Basically really slow.  
16:28:58 22 All at the same time. We were looking. We've got our  
16:29:01 23 flashlights on. We're taking it one step at a time just  
16:29:04 24 looking, looking, looking. Going to the closets.

16:29:06 25 Q Okay. Let's go a little bit slower. You said

16:29:10 1 tactically proceeded. Would you explain to us what that  
16:29:13 2 means?

16:29:13 3 **A** We're in a single file line. We are moving  
16:29:16 4 slowly. We're not rushing along. We are not jogging down  
16:29:20 5 the hallway. We are not even at a walking pace.

16:29:23 6 We're basically covering each section of the  
16:29:26 7 house, each section of the hallway. We're looking up  
16:29:28 8 down, left, right. And every door we come to, we look and  
16:29:34 9 Scott would stop and it would be the duty of the second or  
16:29:37 10 third person to go up to the doors and clear that -- the  
16:29:40 11 doors.

16:29:40 12 **Q** So you proceeded through the dining room and  
16:29:43 13 kitchen area?

16:29:44 14 **A** That's correct.

16:29:44 15 **Q** Let me show you what's admitted into evidence as  
16:30:01 16 Exhibit 2244. Do you recognize what is depicted in that  
16:30:14 17 photograph?

16:30:14 18 **A** Yes, I do.

16:30:15 19 **Q** What is that?

16:30:16 20 **A** That's the counter in the kitchen.

16:30:18 21 **Q** Okay. And would you point with the laser light  
16:30:24 22 which way you went in connection with this counter?

16:30:27 23 **A** Okay. I believe I came in from here. This is  
16:30:31 24 the door on the south and came through here.

16:30:33 25 **Q** Right.

16:30:34 1           **A**     Going around this way.

16:30:35 2           **Q**     Went around that wall there?

16:30:37 3           **A**     Yeah. Correct. Right through here. Yep.

16:30:39 4           **Q**     Okay. And headed down the hallway?

16:30:41 5           **A**     First over to -- there was a closet back on this

16:30:45 6 side that was ajar.

16:30:47 7           **Q**     Like the pantry?

16:30:48 8           **A**     It was a closet that was kind of open with wooden

16:30:52 9 doors. Kind of open.

16:30:53 10          **Q**     Okay.

16:30:54 11          **A**     So stuck my head in there to make sure there is

16:30:56 12 no one in there. Came back. Joined the line, and we

16:30:59 13 headed on down the hallway.

16:31:00 14          **Q**     Okay. And this is Exhibit Number 2242. Do you

16:31:10 15 recognize what's depicted in that exhibit?

16:31:13 16          **A**     Yes, I do.

16:31:13 17          **Q**     What is that?

16:31:14 18          **A**     That's the hallway.

16:31:15 19          **Q**     Is that the hallway you went down in this

16:31:18 20 tactical formation?

16:31:19 21          **A**     Yes, it was.

16:31:20 22          **Q**     Okay. There's a doorway on the left there. Do

16:31:27 23 you recall who checked that?

16:31:28 24          **A**     No, I do not. It could have been myself or

16:31:30 25 Deputy Traintor.

16:31:31 1 Q Okay. And tell us again how you did this as you  
16:31:35 2 went in a tactical formation down the hallway please.

16:31:38 3 A All right. Deputy Joy is going to be in the  
16:31:41 4 front, so he's going to be coming up to here. If this is  
16:31:44 5 the first door, he is stationed over to the right. It's  
16:31:48 6 the obligation of the second and third person at this  
16:31:50 7 point to go into the room. Open the door. Go through.  
16:31:53 8 Clear whatever is in there, including closets. If nothing  
16:31:58 9 is found, we come back. We join the line. We proceed to  
16:32:01 10 the next door and we go in there.

16:32:03 11 And Deputy Joy the whole time is maintaining  
16:32:05 12 point, so he's making sure that no one is coming from this  
16:32:08 13 direction out at us.

16:32:10 14 And also the guy at the back, I am not sure  
16:32:13 15 who that was, but it's their responsibility to look the  
16:32:15 16 opposite direction back towards the dining room, kitchen  
16:32:18 17 area and make sure nobody is proceeding in that way.

16:32:22 18 Q So you were very concerned about officer safety  
16:32:25 19 as you're going down the hallway?

16:32:27 20 A That's correct. We don't know what's going on in  
16:32:28 21 here and we're concerned on our safety.

16:32:32 22 Q You are in a, would it be fair to say, you're in  
16:32:35 23 a heightened status of alert?

16:32:37 24 A Yes, we were.

16:32:39 25 Q Weapons drawn the whole time?

16:32:41 1 A Yes. The entire time.

16:32:43 2 Q Did you have lights on inside the residence as  
16:32:46 3 you were proceeding in this fashion?

16:32:47 4 A No, we did not. We used our flashlights.

16:32:50 5 Q So everybody had their flashlight illuminated?

16:32:53 6 A That's correct.

16:32:53 7 Q And you are going down the hallway in the fashion  
16:32:56 8 that you just described?

16:32:57 9 A That's correct.

16:32:58 10 Q What happened when you got to the end of the  
16:33:02 11 hallway?

16:33:02 12 A When we were down here, Deputy Joy stopped. He  
16:33:08 13 held point here for that bedroom. Deputy Taintor and I,  
16:33:11 14 we went to this room over here, which I believe is the  
16:33:14 15 master bedroom. We went in there. We cleared that. We  
16:33:17 16 went to the master bathroom. Cleared that. Cleared  
16:33:20 17 whatever else was in there. And we came back out and met  
16:33:24 18 Deputy Joy here and then Deputy Joy and I stepped in.  
16:33:27 19 Cleared there. Cleared the loft that was up in this area  
16:33:30 20 and stepped back out.

16:33:31 21 Q How did you clear the loft that was up in that  
16:33:34 22 area?

16:33:34 23 A The best we could just by shining our lights in  
16:33:38 24 there and looking as far back as we could.

16:33:40 25 Q Okay. Make sure nobody was up there?

16:33:43 1 A That's correct.

16:33:44 2 Q When you went into that room, did you have to  
16:33:47 3 step across the body?

16:33:48 4 A Yes, we did.

16:33:50 5 Q How did you accomplish that?

16:33:52 6 A The best I could very gingerly to not step on the  
16:33:57 7 victim and also not to try to disturb anything in the  
16:34:00 8 crime scene.

16:34:01 9 Q And avoid the blood at the scene?

16:34:03 10 A Yes.

16:34:04 11 Q Was there anything that made it difficult to get  
16:34:07 12 through that doorway besides the body of the victim?

16:34:10 13 A Yes. There was a ladder laying across on top of  
16:34:13 14 the door.

16:34:14 15 Q And so how did you get by the ladder? What did  
16:34:19 16 you do?

16:34:19 17 A I had to go underneath the ladder and across the  
16:34:22 18 victim.

16:34:24 19 Q And did Deputy Joy also have to do that?

16:34:26 20 A Both of us did, yes.

16:34:27 21 Q And so you went into that room and cleared that  
16:34:32 22 room so to speak, right?

16:34:34 23 A Yes.

16:34:34 24 Q And then what did you do?

16:34:35 25 A We came back out to the hallway here. I then put

16:34:41 1 on my latex gloves that I carried on me and I felt for the  
16:34:45 2 carotid pulse on the victim.

16:34:47 3 Q Were you in the room when you did that?

16:34:49 4 A Negative. I was in the hallway right down here.

16:34:51 5 Q So could you reach into the room from where you  
16:34:54 6 were at out in the hallway and touch the body?

16:34:57 7 A Yes, I could.

16:34:58 8 Q And the carotid pulse is located where?

16:35:00 9 A On the neck.

16:35:01 10 Q And so you had your gloves on and reached in and  
16:35:04 11 touched the victim on her neck?

16:35:06 12 A That's correct, with two fingers.

16:35:07 13 Q Were you able to find a pulse when you did that?

16:35:09 14 A No, I did not.

16:35:10 15 Q After doing that -- when you were doing that,  
16:35:17 16 where was Deputy Joy located?

16:35:19 17 A He was out in the hallway.

16:35:21 18 Q And after checking on the victim's pulse, what  
16:35:29 19 did you do then?

16:35:30 20 A The deputies were assigned to go back outside and  
16:35:33 21 they cleared basically the rest of the property. Do a  
16:35:37 22 protective sweep of the rest of the buildings on the  
16:35:40 23 property. Whatever else might be out there, just  
16:35:42 24 searching for any more victims, suspects.

16:35:44 25 Q What deputies were assigned to go outside and



16:35:47 1 clear the rest of the property if you recall?

16:35:49 2 A I don't really recall, but I think they all went  
16:35:51 3 out there.

16:35:52 4 Q Did anybody remain inside?

16:35:55 5 A I did.

16:35:56 6 Q Did anybody remain with you?

16:35:58 7 A In and out I think Sergeant Howard might have  
16:36:01 8 been there, but there was deputies coming in and out.  
16:36:05 9 After they were assigned tasks, they would report back.

16:36:08 10 Q When you were in there and found the body, was  
16:36:15 11 anybody assigned to take photographs or did anybody take  
16:36:18 12 photographs while you were there?

16:36:19 13 A Yes. Three deputies actually took photographs  
16:36:23 14 and were -- I remember assigning two of them for sure.

16:36:25 15 Q Who were they?

16:36:26 16 A Deputy Joy and Deputy Taintor.

16:36:28 17 Q Did they get separate cameras or did they use one  
16:36:32 18 or do you recall?

16:36:33 19 A Separate cameras.

16:36:36 20 Q They were assigned to take photographs of the  
16:36:38 21 body. Where were you when this was going on?

16:36:41 22 A Between the hallway and the kitchen.

16:36:46 23 Q Were they also supposed to take photos of the  
16:36:48 24 interior of that room at the back?

16:36:50 25 A Yes, they were.

16:36:51 1 Q When you came to that room and entered and  
16:36:56 2 cleared it, what was the status of that room? Could you  
16:37:00 3 describe it for us, please?

16:37:01 4 A It was in quite a disarray. The victim was  
16:37:06 5 laying down in this area here. As I said, there was a  
16:37:10 6 ladder going on -- the door is open this way. There's a  
16:37:13 7 ladder going across the top. There is a desk sitting  
16:37:16 8 against the wall in here. The loft to the right. There  
16:37:20 9 was a couple bookshelves, like I want to say six foot tall  
16:37:24 10 bookshelves, that were knocked over. I remember some sort  
16:37:28 11 of phone laying on the ground. Blood everywhere and --

16:37:31 12 Q When you say blood everywhere, where was the  
16:37:34 13 blood located if you can recall?

16:37:35 14 A It was on the floor. It was on the sides of the  
16:37:38 15 desk that was facing towards the hallway, I believe, on  
16:37:42 16 the walls around there.

16:37:44 17 Q So blood had spattered on to the wall near the  
16:37:47 18 door?

16:37:48 19 A Yes.

16:37:50 20 Q Do you recall any blood out in the hallway?

16:37:53 21 A Specifically, yes, I do.

16:37:55 22 Q Where was that located?

16:37:56 23 A There is a light switch somewhere right about  
16:37:59 24 here and I noticed a very small spec, a droplet of blood  
16:38:04 25 on that.

16:38:04 1 Q All right. And then did you find or notice any  
16:38:08 2 blood anyplace else in the hallway?

16:38:09 3 A I believe there's some blood down in this area  
16:38:13 4 over here.

16:38:14 5 Q Was there blood on those plastic cartons there?

16:38:17 6 A There might have been, but I don't recall.

16:38:20 7 Q Did you notice any bloody footprints in the  
16:38:24 8 hallway area?

16:38:26 9 A No, I do not.

16:38:27 10 Q Did you see any blood from the dogs being in that  
16:38:31 11 area?

16:38:31 12 A No. No dog prints.

16:38:33 13 Q And by the way, did you recover the dogs at some  
16:38:39 14 point?

16:38:39 15 A At some point in time.

16:38:41 16 Q Do you remember when that occurred?

16:38:43 17 A I do not.

16:38:44 18 Q Okay. What was done with the dogs when you  
16:38:46 19 recovered them?

16:38:46 20 A I think there was a specific dog corralling team  
16:38:49 21 that went out and found the dogs that were, I guess,  
16:38:52 22 inside and outside of the house, and I think they put them  
16:38:55 23 in here.

16:38:57 24 Q Is that the laundry room area?

16:38:59 25 A I think so.

16:38:59 1 Q At any point in time while you were in this crime  
16:39:04 2 scene, did the dogs -- did any dog get into the area where  
16:39:09 3 the victim's body was located?

16:39:11 4 A Not while I was present, no.

16:39:12 5 Q And how long were you present?

16:39:14 6 A I was there until we were relieved by Lieutenant  
16:39:18 7 Rhodes and Sergeant Huante.

16:39:20 8 Q Approximately what time did that occur?

16:39:22 9 A I don't know.

16:39:23 10 Q Was it -- what was your shift that you were  
16:39:26 11 working on this particular date, July 2nd, 2008?

16:39:31 12 A I think it was two to midnight or four to two  
16:39:33 13 a.m.

16:39:34 14 Q Do you recall when you got off work?

16:39:35 15 A It was after 2:30.

16:39:38 16 Q After 2:30 in the morning?

16:39:40 17 A That's correct.

16:39:40 18 Q During that time you made sure that the dogs did  
16:39:44 19 not get into the area where the victim was located?

16:39:46 20 A That's correct. I stayed in the house the whole  
16:39:49 21 time and until I was relieved and the dogs were not in  
16:39:52 22 there.

16:39:52 23 Q You said that you observed a telephone located in  
16:40:17 24 the room in which the victim's body was found; is that  
16:40:21 25 correct?

16:40:21 1 A Yes.

16:40:22 2 Q Do you recall where that telephone was located in  
16:40:25 3 that room?

16:40:25 4 A Not specifically. I thought it was off from the  
16:40:32 5 victim and near the desk area right when you walk in the  
16:40:35 6 doorway.

16:40:35 7 Q Please.

16:41:50 8 Let me show you what's been admitted into  
16:41:53 9 evidence as Exhibit 2290. Are you able to see that? Do  
16:42:14 10 you recognize what is depicted in that photograph?

16:42:16 11 A That's the Tupperware containers out in the  
16:42:19 12 hallway. The door frame. Some blood splatter.

16:42:23 13 Q Okay. And Exhibit 2289 -- I am going to have to  
16:42:30 14 turn this. Can you tell what's depicted in that  
16:42:41 15 photograph?

16:42:41 16 A Yes. That's the same containers, the storage  
16:42:43 17 containers in the hallway.

16:42:46 18 Q And then let me show you what's Exhibit 2287. Do  
16:43:09 19 you recognize this particular photograph?

16:43:10 20 A The door frame.

16:43:12 21 Q All right. And what is that on the side of the  
16:43:14 22 door frame there?

16:43:15 23 A Blood splatter.

16:43:20 24 Q And then this is Exhibit 2285. Have to wait for  
16:43:36 25 my eyes to focus on those little numbers.

16:43:39 1 Do you recognize what's depicted in that  
16:43:41 2 scene?

16:43:42 3 A Yes. I recognize the entrance there, the ladder  
16:43:46 4 there, and also the chair.

16:43:47 5 Q Is that the ladder that you had to go under to  
16:43:51 6 get at the victim's body?

16:43:52 7 A Yeah.

16:43:55 8 THE COURT: Keep your voice up so the people at  
16:43:57 9 the end can hear.

16:43:58 10 MR. BUTNER:

16:43:59 11 Q If you could please speak a little louder.

16:44:01 12 A Okay. I will do that.

16:44:02 13 Q And then those are the Tupperware containers in  
16:44:04 14 the hallway that you were talking about behind the ladder?

16:44:07 15 A Yes. That's correct.

16:44:09 16 Q Let me show you what is marked and admitted into  
16:44:22 17 evidence as Exhibit 2277. If I could -- do you recognize  
16:44:38 18 what's depicted in that photograph?

16:44:39 19 A Yes. I recognize the victim, the ladder, and the  
16:44:43 20 chair, the desk area. Yes.

16:44:45 21 Q Is this a photograph taken from out in the  
16:44:47 22 hallway?

16:44:48 23 A Yes. That's from the hallway.

16:44:49 24 Q And these objects in the forefront, what are  
16:44:55 25 those?

16:44:56 1           **A**     That's those storage containers. The Tupperware  
16:44:59 2 containers.

16:45:00 3           **Q**     And do you know who that is standing back here in  
16:45:04 4 the room in which the victim's body is located?

16:45:09 5           **A**     I do not.

16:45:11 6           **Q**     Do you recall -- let us me show you -- excuse  
16:45:23 7 me -- let me show you Exhibit 2291. Do you recognize what  
16:45:31 8 is depicted in that exhibit?

16:45:33 9           **A**     The phone.

16:45:34 10          **Q**     Is that the phone that was in the same room with  
16:45:36 11 the victim?

16:45:37 12          **A**     Yes.

16:45:37 13          **Q**     And can you tell from that photograph, does that  
16:45:41 14 help refresh your recollection as to where that phone was  
16:45:44 15 located?

16:45:45 16          **A**     If you put the previous picture back up, I can  
16:45:48 17 tell you.

16:45:49 18          **Q**     Okay.

16:45:55 19          **A**     Back over -- back in this area over here.

16:45:59 20          **Q**     Between that white chair and the office chair?

16:46:01 21          **A**     Yeah. Yes. Back over in this area.

16:46:05 22          **Q**     So --

16:46:06 23          **A**     Checkbook there.

16:46:07 24          **Q**     What is that other white object right there?

16:46:10 25          **A**     That looks like a checkbook if I can remember.

16:46:14 1 Q Let me show you what has been marked as Exhibit  
16:46:22 2 2283. Do you recognize what's depicted in that particular  
16:46:25 3 photo?

16:46:26 4 A Yes. That's the victim and also the ladder up in  
16:46:29 5 this area here.

16:46:30 6 Q Right. And what's the object in the lower  
16:46:33 7 right-hand corner of the photograph?

16:46:35 8 A That looks like the checkbook.

16:46:36 9 Q Was there a checkbook in close proximity to the  
16:46:39 10 victim?

16:46:40 11 A Yes.

16:46:45 12 Q Let me show you what's marked as Exhibit 2282.  
16:46:58 13 Do you recognize what is depicted in this particular  
16:47:00 14 photograph?

16:47:00 15 A Yes. The victim, ladder again, the checkbook and  
16:47:05 16 whatever that -- I don't know what that is. That's the  
16:47:07 17 desk, the computer desk, and that was part of the trim off  
16:47:10 18 the desk.

16:47:11 19 Q There was a piece of trim broken off the desk?

16:47:15 20 A Yes. Silver gray trim that belonged over here.

16:47:27 21 Q And this particular photograph, I believe this is  
16:47:39 22 2277, would you point to the trim from the desk that you  
16:47:48 23 were speaking about before.

16:47:49 24 A That would be right here.

16:47:51 25 Q Okay. And then was blood located on the top



16:47:56 1 portion of the desk?

16:47:57 2 **A** Yes. Right up in this area here and down the  
16:48:00 3 side.

16:48:02 4 **Q** Okay. And then what about the ladder? Was there  
16:48:04 5 in a position where it could be used?

16:48:08 6 **A** No. It was leaning against the top of the door  
16:48:11 7 and the door is wide open. The door is open this way and  
16:48:14 8 the ladder's up propped against the top of the door.

16:48:17 9 **Q** And the condition of the rungs of the ladder,  
16:48:19 10 were they headed the right way?

16:48:21 11 **A** I don't recall.

16:48:22 12 **Q** Okay. The blood that was found around the body  
16:48:34 13 of the victim, where was the primary concentration of  
16:48:39 14 blood located around the body of the victim?

16:48:42 15 **A** Up here in the head area, but also down in this  
16:48:45 16 area.

16:48:46 17 **Q** And were you able to discern any injuries to the  
16:48:49 18 abdominal area of the victim?

16:48:52 19 **A** I did not see anything from my advantage point  
16:48:55 20 when I was looking out here. I could not tell. I did not  
16:48:59 21 see any injuries to the abdominal area.

16:49:02 22 **Q** Were there obvious injuries to the victim's head?

16:49:05 23 **A** Yes, there were.

16:49:06 24 **Q** When you saw this particular scene, what did you  
16:49:14 25 think?

MR. SEARS: Relevance. Foundation. Speculation.

MR. BUTNER: I will withdraw that question and ask a little more artful question, Judge.

THE COURT: All right.

MR. BUTNER:

**Q** When you observed this particular scene, you were there on a welfare check; is that correct?

**A** Yes, sir.

**Q** Did it cause you to have special concerns?

**A** Yes, it did.

**Q** What did you -- what were your special concerns at this point?

**A** My concern is that when I go to any death investigation, that I look at this as if, A, the person did they -- could they do that to themselves. And, B, if they could do it to themselves, is this an accident. And if so, if it's an accident, how did this happen. And are the injuries consistent with an accident or something that that individual would do to themselves. And in this case, I did not observe any of that. It was very suspicious circumstances.

**Q** So you went through that, basically, that three step process in analyzing this scene?

**A** Yes. I do that in every death investigation I go on.

16:50:20 1 Q And your conclusion in regard to this death  
16:50:23 2 investigation, at least when you were there at the scene,  
16:50:26 3 was?

16:50:27 4 A That she could not do this to herself and it was  
16:50:29 5 not an accident.

16:50:30 6 Q So at that point in time, you were treating this  
16:50:34 7 as a homicide investigation?

16:50:35 8 A Yes.

16:50:36 9 Q You can resume your seat. Thank you. Yeah. I  
16:50:51 10 am going to take this off.

16:50:55 11 Is it time.

16:51:23 12 Okay. After -- well, can we put this down.  
16:51:38 13 That worked pretty good. That is good.

16:51:45 14 Thanks, Phil.

16:51:53 15 After entering the house and going back to  
16:51:56 16 the back bedroom, you indicated that you dispatched  
16:51:59 17 deputies out to the outer portion of the residence to  
16:52:03 18 conduct further investigation, right?

16:52:06 19 A Yes, sir. They went out and did a protective  
16:52:09 20 sweep of the property.

16:52:10 21 Q And you remained inside the residence?

16:52:12 22 A Yes.

16:52:13 23 Q And how long were you in the residence before the  
16:52:19 24 detectives arrived?

16:52:21 25 A I would have to review my notes to look in there

16:52:24 1 to see when they showed up.

16:52:25 2 Q Do you have that stuff with you?

16:52:26 3 A Yes, sir.

16:52:27 4 Q And when you say your notes, what do you have?

16:52:30 5 A I have a copy of the radio log from that evening.

16:52:34 6 Q Your radio log. Okay. You can refresh your  
16:52:37 7 recollection with that radio log, please, and then put it  
16:52:41 8 down and testify from your recollection refreshed, please.

16:52:52 9 A According to my radio log, it appears that  
16:52:58 10 Lieutenant Rhodes, now Captain Rhodes, arrived at  
16:53:02 11 10:10 p.m.

16:53:04 12 Q And at that point in time, he arrives at  
16:53:10 13 10:10 p.m. What did you do?

16:53:11 14 A Prior to them getting there or when -- while they  
16:53:15 15 were there?

16:53:16 16 Q Well, have you told us basically what you did  
16:53:19 17 before they got there?

16:53:20 18 A There's a little more.

16:53:21 19 Q Okay. What did you do after you were back in the  
16:53:25 20 office area of the Bridle Path residence?

16:53:27 21 A I went up to the kitchen area and basically I was  
16:53:31 22 trying to identify who the victim was. Make a positive  
16:53:34 23 identification.

16:53:35 24 Q And what did you do in that regards?

16:53:37 25 A I went back up to the kitchen area. At that

16:53:41 1 illuminated island, there's some mail on the island there.  
16:53:45 2 I looked down. I saw a name on there and address that was  
16:53:48 3 the same address we were at. I noticed the purse next to  
16:53:51 4 the mail.

16:53:53 5 Looking in the purse, I saw a wallet. I  
16:53:56 6 grabbed the wallet. I pulled the driver's license out and  
16:53:59 7 I walked back to the victim with the driver's license and  
16:54:03 8 made a positive identification of the victim based on  
16:54:08 9 that.

16:54:08 10 Q Okay. And at that point in time, you identified  
16:54:11 11 the victim as whom?

16:54:12 12 A Carol Kennedy.

16:54:17 13 Q And after having done that, what did you do?

16:54:20 14 A I made several phone calls over to my boss,  
16:54:26 15 lieutenant of operations and I called criminal  
16:54:28 16 investigations.

16:54:29 17 Q That's when they started coming out to the scene?

16:54:31 18 A That's correct.

16:54:32 19 Q How long were you -- how long were you waiting  
16:54:37 20 for them after you made those phone calls requesting  
16:54:40 21 criminal investigations to come to the scene?

16:54:42 22 A I don't remember specifically, but they got there  
16:54:45 23 pretty quick.

16:54:46 24 Q And when they arrived, that is the detectives,  
16:54:51 25 right?

16:54:52 1 A Lieutenant Rhodes and Sergeant Huante.

16:54:55 2 Q When Lieutenant Rhodes and Sergeant Huante  
16:54:57 3 arrived, what did you do then?

16:54:59 4 A I was still inside the house and I talked to them  
16:55:03 5 and basically walked them through the scene and what I had  
16:55:06 6 and what I discovered and that was it.

16:55:08 7 Q Did you exit the residence at that point in time?

16:55:14 8 A Yes, I did. I went out the same door I came in  
16:55:16 9 on the south side.

16:55:17 10 Q And after exiting the residence, did you perform  
16:55:22 11 additional duties in connection with this investigation?

16:55:24 12 A Yes, I did.

16:55:25 13 Q What did you do next?

16:55:27 14 A Next we basically went and talked to neighbors  
16:55:30 15 and canvassed the area.

16:55:32 16 Q Okay. Where did you go to talk to neighbors?

16:55:35 17 A I went across the street and I talked to  
16:55:37 18 Mr. Messenger.

16:55:38 19 Q Were you able to gather any information about  
16:55:42 20 this homicide now from Mr. Messenger?

16:55:46 21 A Not really, no.

16:55:48 22 Q He didn't hear anything or see anything?

16:55:50 23 A No, he did not.

16:55:51 24 Q All right. And after talking with Mr. Messenger,  
16:55:55 25 what did you do then?

16:55:56 1           **A**     While I had been talking to Mr. Messenger, Deputy  
16:56:00 2     Traintor had been talking to Mr. Drake who was also a  
16:56:02 3     neighbor.

16:56:03 4           **Q**     Where was Mr. Drake's residence located?

16:56:06 5           **A**     Just south of the victim's address.

16:56:10 6           **Q**     Okay. Immediately to the south?

16:56:14 7           **A**     That's correct.

16:56:15 8           **Q**     And without -- without telling us exactly what  
16:56:21 9     Mr. Drake said, did Deputy Traintor gather information  
16:56:26 10    from Mr. Drake that led to another step in the  
16:56:29 11    investigation?

16:56:30 12          **A**     Not at this point. Deputy Taintor came back out  
16:56:34 13    and talked to me after talking to Mr. Drake.

16:56:37 14          **Q**     Right.

16:56:37 15          **A**     And we had received a phone call from dispatch  
16:56:40 16    indicating Mr. Drake wanted us to come back to his  
16:56:43 17    property.

16:56:43 18          **Q**     And so did you go back to Mr. Drake's property?

16:56:46 19          **A**     Yes. I went back over there with Deputy Traintor  
16:56:48 20    and talked to him.

16:56:49 21          **Q**     And talked with Mr. Drake further?

16:56:51 22          **A**     Yes.

16:56:51 23          **Q**     And did that lead to another step in the  
16:56:54 24    investigation?

16:56:55 25          **A**     Yes, it did.

16:56:56 1 Q What was that next step?

16:56:57 2 A Mr. Drake indicated he had heard a single male.

16:57:01 3 MR. SEARS: Hearsay.

16:57:03 4 THE COURT: Sustained.

16:57:03 5 MR. BUTNER:

16:57:04 6 Q That's that part I didn't want you to tell me.

16:57:06 7 Okay. What was the next step in the investigation that  
16:57:09 8 you and Deputy Traintor took?

16:57:12 9 A After talking to neighbors in the area, we  
16:57:16 10 decided to start looking in the next area over in the  
16:57:20 11 Granite Oaks subdivision. Just canvassed the area for any  
16:57:26 12 vehicles, any people, anything that might stand out, that  
16:57:30 13 looks suspicious.

16:57:33 14 MR. BUTNER: Okay. Judge, now is a good time I  
16:57:38 15 think for the evening recess before we get into that.

16:57:41 16 THE COURT: I think we're transitioning into a  
16:57:43 17 different topic, so let's break for the evening. It's a  
16:57:47 18 couple minutes before five.

16:57:48 19 Remember the admonition. Don't do any  
16:57:50 20 research. Don't discuss the case with anyone. I will  
16:57:54 21 take that other jury question that may still be there. We  
16:57:57 22 have a number already.

16:57:59 23 Let's resume at nine o'clock tomorrow  
16:58:04 24 morning.

16:58:04 25 You take care of yourselves in the meantime.



16:58:08 1 Have a good evening.

16:58:38 2 (Whereupon, the jury left the courtroom.)

16:59:00 3 THE COURT: We will see you tomorrow about five  
16:59:03 4 of nine.

16:59:03 5 THE WITNESS: Okay. I will be here.

16:59:07 6 (Whereupon, the witness left the courtroom.)

16:59:08 7 THE COURT: If the lawyers wanted to look at the  
16:59:09 8 questions so far, you're welcome to do so. Leave them  
16:59:19 9 back there when you're done.

16:59:25 10 MR. BUTNER: I knew you would come back.

16:59:42 11 THE COURT: Any legal matters that the lawyers  
16:59:44 12 wanted to put on the record before Sandi leaves?

16:59:46 13 MR. BUTNER: I don't have anything that I want  
16:59:49 14 to, Judge.

16:59:54 15 THE COURT: Then I will excuse Sandi and let the  
16:59:57 16 lawyers continue looking at the jury questions. We will  
17:00:00 17 stand in recess.

18 ---o0o---

17:00:03 19

17:00:03 20

21

22

23

24


25

1                                ---o0o---

2                                C E R T I F I C A T E

3                                I, SANDRA K MARKHAM, Certified Reporter, do  
4 hereby certify that the foregoing pages constitute a true  
5 and accurate transcript of the proceedings had and  
6 testimony given in the hearing of the matter entitled as  
7 upon the first page hereof.

8                                Dated: June 22, 2010.

9                                  
10                                \_\_\_\_\_  
11                                Sandra K Markham, CR, RPR, CSR  
12                                Certified Reporter  
13                                Arizona License No. 50001  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SANDRA K MARKHAM, CR, RPR  
OFFICIAL COURT REPORTER